

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
TAXICAB COMMISSION
REGULAR FULL
COMMISSION MEETING**

**DC TAXICAB COMMISSION OFFICE
2041 Martin Luther King Jr. Avenue, SE,
Suite 204
Washington, D.C.,**

**WEDNESDAY,
JANUARY 9, 2008**

PRESENT:

LEON J. SWAIN, Chairman
SANDRA C. ALLEN, Commissioner
A. CORNELIUS BAKER, Commissioner
INDER RAJ PAHWA, Commissioner
STANLEY W. TAPSCOTT, Commissioner
THERESA N. TRAVIS, Commissioner

DOREEN THOMPSON, ESQ., General Counsel and Secretary

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

TABLE OF CONTENTS

1		
2		
3	ITEM	PAGE
4		
5	Introduction.....	4
6		
7	Review of prior meeting minutes.....	43
8		
9	Handicapped taxicabs.....	117
10		
11	Pre-licensing testing.....	123
12		
13	Permanent rate increase.....	139
14		
15	Adjourn	

1

MINUTES

2

3

1. CALL TO ORDER AND QUORUM DETERMINATION

4 Leon J. Swain, Chairman, presiding called the meeting to order at 10:25am
5 and called a moment of silence. Doreen Thompson, the General counsel
6 determined that there was a quorum for voting purposes and the chairperson
7 acknowledged that he had been contacted by commissioner Heinemann ,
8 who as he indicated was out with the flu.. Chairperson Swain discussed
9 rules for the meeting such as stepping up to make comments at the table
10 to allow the transcriber to more easily transcribe the statements and to say
11 and spell your name for the transcript.

12

13

2. COMMISSIONERS COMMENTS

14

15 CHAIRMAN SWAIN: Since it is a new year, do any of the other
16 Commissioners have anything they'd like to say before we get started? Ms.
17 Travis?

18

COMMISSIONER TRAVIS: Not at this point, not yet.

19

CHAIRMAN SWAIN: Mr. Pahwa?

20

COMMISSIONER: Happy new year to all of you. I hope
21 this year will be better than last.

22

COMMISSIONER ALLEN: Ditto.

23

CHAIRMAN SWAIN: Mr. Baker?

24

COMMISSIONER BAKER: No, just happy new year,
25 and I'd like to endorse the Chairman's comments at the beginning of the
26 meeting, that it is a new year, and I hope that we can all start off fresh,
27 respectfully engaged. There are a lot of difficult issues that will be
28 addressed over the next few months, and I think that the 1,000 comments
29 that we've received shows a high level of citizen interest in the
30 Commission, and it really is a testing time for us, to really move forward
31 and to do the work well for the citizens in the District and to be a model.

32

This affects our citizens, our tourist industry, and our
33 businesses, and so, I just hope that we'll all really work well and in a
34 professional way. And so, I know during the break, I really considered
35 whether this is the best use of my time, and I hope it proves to be.

36

CHAIRMAN SWAIN: Mr. Tapscott?

37

COMMISSIONER TAPSCOTT: Happy new year to
38 everyone, and you all can depend on me working with each and every
39 one, the Council and the drivers of the taxicabs of D.C.

40

41

20

21

NEAL R. GROSS

22

COURT REPORTERS AND TRANSCRIBERS

23

1323 RHODE ISLAND AVE., N.W.

24

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1
2 3. **VOTE ON MINUTES**
3
4
5
6
7

8 Let's see, what I'm going to talk about is, the comment
9 period closed yesterday at 5:00 p.m. There were a -- over 1,000 comments
10 were submitted and so, now, I'm in the process of gathering all of the
11 comments from the different places. I know some of them went to the
12 Mayor's Office, some of them went to David Vacca at Jim Graham's office,
13 and I'm checking with the other Council members to see if they had any
14 also, so we can make sure that we put them all in one location and go ahead
15 and start answering them. So, we're going to be doing that -- in fact, we've
16 already started that process.

17 MS. ROBINSON: I'm Carolyn Robinson, Yellow Cab
18 800. I just have one quick question, not to --

19 COURT REPORTER: Could you come to the front? It's
20 really important.

21 MS. ROBINSON: Carolyn Robinson, Yellow Cab 800. I
22 just have a quick question, in regards to the comments. On the last meeting,
23 which was in December, you stated that you were going to answer all of the
24 questions that we posed in the January 9th meeting.

25 Being though you just said that there were over 1,000
26 comments and you haven't got them all coordinated, it's possible that you
27 will not answer any of the questions today?

28 CHAIRMAN SWAIN: I don't remember saying that I
29 would answer questions at this meeting. I mean, the comment period just
30 closed yesterday.

31 MS. ROBINSON: Well, the questions that we posed in
32 December, you said that you would answer on January 9th.

33 CHAIRMAN SWAIN: I will answer all of the comments
34 at the same time, ma'am.

35 MS. ROBINSON: Okay.

36 CHAIRMAN SWAIN: Thank you.

37 MS. ROBINSON: So, that's later, correct?

38 CHAIRMAN SWAIN: It's not now.

39 MS. ROBINSON: Okay.
40

41 CHAIRMAN SWAIN: Okay, we have -- did everyone
42 receive the minutes?

43 ALL: Yes.

44 CHAIRMAN SWAIN: Yes, sir?

26
27 **NEAL R. GROSS**

28 COURT REPORTERS AND TRANSCRIBERS

29 1323 RHODE ISLAND AVE., N.W.

30 WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 COMMISSIONER TAPSCOTT: Why was there so
2 many different copies? June, I think I got three different copies. September
3 had two or three different copies.

4 CHAIRMAN SWAIN: Mr. Tapscott, I guess they just
5 wanted to make sure that you got copies.

6 COMMISSIONER TAPSCOTT: There was some
7 confusion because I didn't know which copy we were to --

8 CHAIRMAN SWAIN: No, we have -- we sent out
9 several months, May, June, July, September, November and December.

10 COMMISSIONER TAPSCOTT: Okay, I'll tell you what
11 I'm trying to say -- and I'm not --

12 CHAIRMAN SWAIN: No, I understand what you're
13 trying to say --

14 COMMISSIONER TAPSCOTT: I mean, you could have
15 -- we don't know which minutes that we are using. All of these, I got within
16 the last week or less. It's May 9th here, May 9th, June 13th, June 13th, June
17 13th. I don't know if changes have been made to these or --

18 CHAIRMAN SWAIN: No, I sincerely doubt that any
19 changes made to them are -- I can't say -- I'm pretty -- there hasn't been any
20 changes made to them, just duplicate mailings to you, sir.

21 COMMISSIONER TAPSCOTT: Okay, they're
22 duplicates?

23 CHAIRMAN SWAIN: I'm pretty sure that they're
24 duplicate mailings to you.

25 COMMISSIONER TAPSCOTT: Okay, but you don't --

26 CHAIRMAN SWAIN: No, I appreciate you bringing it
27 to our attention. Okay, there was -- let's talk about the May minutes. Were
28 there any changes that need to be made to the minutes from the month of
29 May?

30 COMMISSIONER TAPSCOTT: I had one.

31 CHAIRMAN SWAIN: Yes, sir.

32 COMMISSIONER TAPSCOTT: In A1, new companies
33 and -- we were talking for the last year and we've asked on many occasions,
34 before all of this got blown out of proportion, about it -- a limited number of
35 cab companies being put on the street.

36 CHAIRMAN SWAIN: Yes, sir.

37 COMMISSIONER TAPSCOTT: And we was told that
38 we could not stop it, that there was no law to stop putting cabs on the street,
39 and from that, I think we put somewhere close to 50 cabs on the street in the
40 last year.

41 But now, I understand we're not issuing no more. We
42 stopped it. So, if it couldn't have been stopped then, how can it be stopped
43 now? What law is being --

44 CHAIRMAN SWAIN: You're saying that we're not

32

33

34

35

36

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 processing companies?

2 COMMISSIONER TAPSCOTT: I'm asking, are we
3 processing any new companies now?

4 CHAIRMAN SWAIN: Yes, we are, we will accept
5 applications, and we will send those to be reviewed by your Committee,
6 yes, sir.

7 COMMISSIONER TAPSCOTT: So, we're not having a
8 shut down of new companies?

9 CHAIRMAN SWAIN: No, sir.

10 COMMISSIONER TAPSCOTT: Because I was told,
11 some companies that's already been in the process and been approved, can't
12 get the license and can't open up no more new companies.

13 CHAIRMAN SWAIN: You may have some individuals
14 who can't -- provided you have the appropriate number of vehicles or things
15 of that nature, but nobody's application has been just summarily refused.

16 COMMISSIONER TAPSCOTT: But we are still putting
17 and can put new companies on the street?

18 CHAIRMAN SWAIN: Yes, sir, as long as they meet the
19 requirements, yes, sir, we can.

20 COMMISSIONER TAPSCOTT: Okay.

21 CHAIRMAN SWAIN: If you do know of a case like
22 that, just please have them contact me. I would be happy to look into it and
23 get back with you, sir.

24 COMMISSIONER TAPSCOTT: Okay.

25 CHAIRMAN SWAIN: Anything else? Anybody find
26 anything else in the May minutes that they would like to have reviewed?

27 COMMISSIONER BAKER: On that one minute, on just
28 the May?

29 CHAIRMAN SWAIN: Right, we're doing May right
30 now, sir.

31 COMMISSIONER TAPSCOTT: What have we done on
32 enforcement of this loitering? Have we been able to do anything on that?

33 CHAIRMAN SWAIN: I'm sorry, sir?

34 COMMISSIONER TAPSCOTT: On the loitering
35 situation we had, where it was being charged as a --

36 CHAIRMAN SWAIN: We were trying to do away with
37 making it a criminal misdemeanor --

38 COMMISSIONER TAPSCOTT: Right.

39 CHAIRMAN SWAIN: -- and going to a civil matter.

40 COMMISSIONER TAPSCOTT: Right.

41 CHAIRMAN SWAIN: No, that's -- we are doing May.
42 He was just asking about the loitering, that we had discussed the last time,
43 right. That's being sent back to the Committee. There seemed to be some
44 unreadiness on it, the last time we attempted to deal with it. So, it's going

1 back to the Committee, so we can get a better understanding, so we can go
2 ahead and present it and vote on it again, or present it for a vote, sir.

3 COMMISSIONER TAPSCOTT: And what is this sport
4 utility, SUVs? How do we stand on those right now?

5 CHAIRMAN SWAIN: You stand exactly where you left
6 it at the last time, sir. You voted -- I believe that prior to my coming here,
7 the Commission had decided about SUVs, the size of SUVs, that they were
8 interested in. That has not changed.

9 COMMISSIONER TAPSCOTT: Are we permitting
10 SUVs or not?

11 CHAIRMAN SWAIN: According to your vote, SUVs,
12 you were not doing the Escalades and you were not doing the Yukon
13 Denalis. You were doing the smaller SUVs.

14 COMMISSIONER TAPSCOTT: That one goes over my
15 head a little bit.

16 CHAIRMAN SWAIN: All right, is there any --

17 COMMISSIONER TRAVIS: Is the question -- was
18 whether or not SUVs have been approved?

19 CHAIRMAN SWAIN: Yes.

20 COMMISSIONER TRAVIS: And you're saying that it
21 was voted that --

22 CHAIRMAN SWAIN: No, I'm saying that -- what I have
23 saw is that -- the information I received is that you were not doing the large
24 SUV, the Denalis, the Yukon -- I'm sorry, the Yukon Denalis, the
25 Escalades. But right now, can we go ahead and deal with the May minutes?

26 COMMISSIONER TRAVIS: Yes, let's get the minutes
27 out of the way.

28 CHAIRMAN SWAIN: Are there any changes for the
29 May minutes? I will entertain a motion.

30 COMMISSIONER ALLEN: So moved.

31 COMMISSIONER TAPSCOTT: Well, that was the
32 reason I brought that up. The SUV thing was in the May minutes.

33 CHAIRMAN SWAIN: Sir?

34 COMMISSIONER TAPSCOTT: That's the reason I
35 brought it up.

36 CHAIRMAN SWAIN: Okay, we have not changed
37 anything that was in there. What page are you on, Mr. Tapscott?

38 COMMISSIONER TAPSCOTT: I'm on page four.

39 CHAIRMAN SWAIN: Sandra, he's at page four. Thank
40 you very much, Mr. Wright. COMMISSIONER ALLEN: So,
41 your decision was to send it back to Committee --

42 CHAIRMAN SWAIN: Yes, it was.

43 COMMISSIONER ALLEN: Thank you. Then it's to go
44 back to the Committee, and they're in charge of that.

1 CHAIRMAN SWAIN: Yes.

2 COMMISSIONER ALLEN: So, that's the decision?

3 CHAIRMAN SWAIN: Yes, it was.

4 COMMISSIONER ALLEN: No action taken.

5 COMMISSIONER TAPSCOTT: It's been pointed out to
6 me that SUVs are being put on it, as of now, and that's the reason why I
7 questioned that. New SUVs are being put on the street.

8 CHAIRMAN SWAIN: Well, I tell you, I appreciate you
9 bringing that --

10 COMMISSIONER TRAVIS: Could you speak up, so we
11 can understand? I can't hear a thing you're saying.

12 CHAIRMAN SWAIN: Mr. Tapscott was saying that he
13 understands that new SUVs are being placed on the street, and I told him
14 that I'm glad he brought that to my attention and I will check into it and get
15 back with him.

16 I'll contact DMV, and I'll also contact the inspection
17 station, and make sure they're not summarily putting SUVs on the street, sir.

18 COMMISSIONER TRAVIS: And get in touch with
19 DMV to let them know what -- to be on there or not because I remember
20 one time, they were saying they didn't know what cars could go through and
21 what couldn't.

22 CHAIRMAN SWAIN: I will make sure that I get in
23 contact with DMV, ma'am, and the inspection station.

24 COMMISSIONER TAPSCOTT: My last question is, did
25 the --

26 CHAIRMAN SWAIN: What page, sir?

27 COMMISSIONER TAPSCOTT: Well, page five. Did
28 the rule making go through -- has it been approved by drivers, riding with
29 dogs in the car? Where do we stand on that?

30 MS. THOMPSON: It's in the proposed rule making that
31 was done in October.

32 CHAIRMAN SWAIN: Right.

33 COMMISSIONER TRAVIS: Is the gentleman still riding
34 with the dog in his car?

35 COMMISSIONER TAPSCOTT: I don't know. I just
36 wondered whether it had been approved or disapproved or what -- or where
37 it was.

38 COMMISSIONER ALLEN: Unanimously -- according
39 to these minutes, it was unanimously approved, as proposed rule making,
40 which would amend 31DMR and a civil fine infraction by imposing a \$15
41 civil fine on taxi drivers who transport an animal or pet of any kind in a
42 vehicle for hire, while holding the vehicle out for hire or transporting
43 passengers. So, it was sent to rule making, Mr. Tapscott.

44 COMMISSIONER TAPSCOTT: It was what?

50

51

52

53

54

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

(202) 234-4433

1 COMMISSIONER ALLEN: It was --
2 CHAIRMAN SWAIN: The rule making.
3 COMMISSIONER ALLEN: Rule making.
4 COMMISSIONER TAPSCOTT: So, it hasn't been --
5 COMMISSIONER ALLEN: It was -- an action taken,
6 that's what the -- that's what it says.
7 COMMISSIONER TAPSCOTT: So, it's not out of rule
8 making yet then, is it? It hasn't been voted by a full Commission?
9 CHAIRMAN SWAIN: No, sir.
10 COMMISSIONER ALLEN: I don't know.
11 COMMISSIONER TAPSCOTT: Well, how could it be
12 in two places?
13 MS. THOMPSON: Excuse me, Mr. Tapscott, it was
14 voted out of the Commission, as proposed rule making --
15 COMMISSIONER ALLEN: Yes, and then --
16 MS. THOMPSON: -- and as I just said, it went to the
17 register. It was part of the last rule making, the October 17th rule making.
18 COMMISSIONER TAPSCOTT: Well, that's what I'm
19 saying, it don't have to go back through -- it already been out and voted by
20 the full Commission?
21 CHAIRMAN SWAIN: Yes, sir.
22 MS. THOMPSON: Right.
23 COMMISSIONER TAPSCOTT: Okay.
24 CHAIRMAN SWAIN: Anything else on the May? Do
25 you want to vote on this or do you want to do them all at the same time?
26 COMMISSIONER ALLEN: Why don't we just do them
27 all at once, after we've made the --
28 COMMISSIONER TAPSCOTT: I think do them one at a
29 time, because --
30 CHAIRMAN SWAIN: Okay, we're moving on to the
31 June minutes.
32 COMMISSIONER BAKER: I'm sorry, Mr. Chairman.
33 Are we voting in block on the minutes or -- and what if there's a month that
34 there are problems with?
35 CHAIRMAN SWAIN: We will go ahead and if there's
36 months that there are some serious problems, we'll just go ahead and pass
37 those by. But we're going to go ahead and try to vote on these as a block,
38 sir, if we can.
39 COMMISSIONER BAKER: Okay.
40 CHAIRMAN SWAIN: Thank you, sir.
41 COMMISSIONER ALLEN: Mr. Chairman, can we --
42 I've got to be recognized first.
43 CHAIRMAN SWAIN: Ms. Allen?
44 COMMISSIONER ALLEN: I promised that in 2008, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

(202) 234-4433

1 was going to do that.

2 CHAIRMAN SWAIN: Thank you, Ms. Allen.

3 COMMISSIONER ALLEN: We're going to vote on
4 them in block and we'll make the necessary changes, as we go through
5 them, and then when we vote on them, we'll vote on them as amended?

6 CHAIRMAN SWAIN: As amended, yes.

7 COMMISSIONER ALLEN: Okay, all right.

8 CHAIRMAN SWAIN: Any changes for the June
9 minutes?

10 COMMISSIONER TAPSCOTT: There was a couple of
11 questions asked by Captain Reese and his Sergeant. Was all of those been
12 answered?

13 CHAIRMAN SWAIN: Which questions are you
14 referring to, Mr. Tapscott?

15 COMMISSIONER TAPSCOTT: Let me see, Ted King.
16 I guess it's really too much. Sergeant Lee, I don't understand his role in this
17 meeting, if he is at future meetings, he is to observe and identify any
18 enforcement problems in 3D.

19 Sergeant Lee indicated that if any of the drivers have any
20 concerns, including enforcement concerns, which -- is Sergeant Lee still --

21 CHAIRMAN SWAIN: Is Sergeant Lee still what, sir?

22 COMMISSIONER TAPSCOTT: In 3D, working with
23 us?

24 CHAIRMAN SWAIN: I have no idea if Sergeant Lee is
25 still in the 3rd District. I have been talking to Chief Burke, and Chief Burke
26 is now requiring that the master patrol officers now become the liaison
27 persons within the District.

28 I do know that Captain Reese is no longer there. He was
29 transferred.

30 UNIDENTIFIED SPEAKER: (w/out microphone)

31 CHAIRMAN SWAIN: As soon as we finish this, I'll be
32 more than happy to come to you, sir. I'm trying to get this out of the way.

33 UNIDENTIFIED SPEAKER: (w/out microphone)

34 CHAIRMAN SWAIN: We're going through month by
35 month, sir. Sir, we're making the corrections and if he has a question, we're
36 here to answer his questions.

37 All right, do we have any further -- any further
38 corrections for the March -- I'm sorry, for the June 13th minutes?

39 (No verbal response)

40 CHAIRMAN SWAIN: Okay, let's move on to the next
41 month, please, July 25th.

42 COMMISSIONER BAKER: Mr. Chairman?

43 CHAIRMAN SWAIN: Yes.

44 COMMISSIONER BAKER: I just got one technical

1 question first. If you look at the minutes that we were sent, on the cover
2 pages, May, June, July and on each -- on the front of each, there's a different
3 formatting style.

4 They change when we get to -- I guess, September. I
5 didn't know if we changed firms or there was --

6 CHAIRMAN SWAIN: No, sir, we're still using the same
7 firm.

8 COMMISSIONER BAKER: Okay, I just think -- just if
9 we can get some consistency, and then, I guess, just a matter of technicality.
10 I don't know the answer to this, but on the July meeting, it says "Full
11 Commission Meeting." All the rest say "Regular Commission Meeting."

12 CHAIRMAN SWAIN: Okay, sir. I will make that note
13 for you. Thank you.

14 COMMISSIONER ALLEN: What is full and what is
15 regular?

16 CHAIRMAN SWAIN: They're the same. Any
17 corrections for the July minutes?

18 COMMISSIONER TAPSCOTT: Going back to the May
19 meeting, could you read -- on page three, item B?

20 CHAIRMAN SWAIN: May meeting, item B.

21 COMMISSIONER TAPSCOTT: Seems like I'm not
22 reading right. The May meeting, we tabled it.

23 CHAIRMAN SWAIN: You said item B?

24 COMMISSIONER TAPSCOTT: What?

25 CHAIRMAN SWAIN: Mr. Tapscott had a question
26 about the May meeting, item B. Go ahead, Mr. Tapscott.

27 COMMISSIONER TAPSCOTT: Doreen Thompson,
28 Secretary and General Counsel, denied two issues which could be addressed
29 if the Commission was ready to take action on them. One item was a vote
30 on May 2007 Commission meeting minutes, as to the determination that the
31 Commission had not received the minutes. The item was tabled.

32 COMMISSIONER ALLEN: What page are you reading,
33 so they can see it?

34 COMMISSIONER TAPSCOTT: Page three of the July.
35 No, but they're referring back to May meeting, we tabled it.

36 COMMISSIONER ALLEN: Mr. Tapscott?

37 COMMISSIONER TAPSCOTT: Yes, ma'am.

38 COMMISSIONER ALLEN: Where did we table it in
39 May? Where do you -- where is that?

40 COMMISSIONER TAPSCOTT: In B, May minutes and
41 change to loitering legislation.

42 CHAIRMAN SWAIN: When?

43 COMMISSIONER ALLEN: He's saying that we tabled it
44 in May. So, I'm trying to find it in the May minutes --

1 CHAIRMAN SWAIN: It's not in there.
2 COMMISSIONER ALLEN: -- to see where it was
3 tabled, that's all.
4 COMMISSIONER BAKER: Mr. Chair?
5 CHAIRMAN SWAIN: Yes, sir.
6 COMMISSIONER BAKER: I don't know what the issue
7 is, but what the action -- and I wasn't at the July meeting. But what the
8 action that's recorded here, is that the May meeting -- May minutes were
9 originally presented in July.
10 CHAIRMAN SWAIN: Yes.
11 COMMISSIONER BAKER: But they were tabled,
12 because Commissioners had not yet read them.
13 CHAIRMAN SWAIN: Right.
14 COMMISSIONER BAKER: And so, I mean, that's just
15 --
16 CHAIRMAN SWAIN: A statement.
17 COMMISSIONER BAKER: It just records the action
18 that was done there.
19 COMMISSIONER ALLEN: Thank you.
20 COMMISSIONER BAKER: I'm not sure what the issue
21 becomes.
22 COMMISSIONER TAPSCOTT: Now, this says May
23 minutes and changes to loitering legislation.
24 COMMISSIONER BAKER: They were both tabled in
25 July.
26 COMMISSIONER TAPSCOTT: In July, that was my
27 question.
28 COMMISSIONER BAKER: Right.
29 COMMISSIONER TAPSCOTT: So, when did we vote
30 on them for them to be sent over for -- that was my question.
31 CHAIRMAN SWAIN: Mr. Tapscott, I can check on that
32 for you, sir. I do not have that information in front of me, but I will check
33 on that.
34 MS. THOMPSON: Excuse me, the question is when did
35 we vote on the loitering?
36 COMMISSIONER TAPSCOTT: Yes, and also, on the --
37 MS. THOMPSON: That would have been either -- in the
38 November meeting.
39 CHAIRMAN SWAIN: It's in November?
40 MS. THOMPSON: It's in the November meeting. It was
41 tabled then, and then it was raised again in November. So, the November
42 minutes, you'll see a discussion about de-criminalizing --
43 CHAIRMAN SWAIN: Then it was tabled again.
44 MS. THOMPSON: And in fact, it wasn't tabled, in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 essence. It was transferred back to the panel for some language in
2 November, for the language.

3 COMMISSIONER ALLEN: Okay, but does the minutes
4 say it was tabled?

5 CHAIRMAN SWAIN: The July minutes, in July.

6 COMMISSIONER ALLEN: Does it indicate it was
7 tabled in July?

8 MS. THOMPSON: Yes.

9 CHAIRMAN SWAIN: Yes.

10 COMMISSIONER ALLEN: And so, in order for it to
11 come back off the table -- because it wasn't tabled -- during that time, it was
12 tabled?

13 MS. THOMPSON: Yes.

14 COMMISSIONER ALLEN: Okay. So, in order for it to
15 come back, how do we bring it back, once it's been tabled?

16 CHAIRMAN SWAIN: It was already brought back in the
17 November meeting.

18 COMMISSIONER ALLEN: How? If an issue is tabled,
19 without a time certain, how do you bring it back to the table, that's all I'm
20 asking, because tabling means that you're through with it.

21 CHAIRMAN SWAIN: I will check that out.

22 COMMISSIONER ALLEN: Thank you, I was just
23 asking.

24 CHAIRMAN SWAIN: I understand, Ms. Allen.

25 MS. ROBINSON: My question is why couldn't this have
26 been discussed in executive meeting, the minutes, instead of taking our time
27 up with the other prescient issues -- we have other meetings and stuff to
28 attend?

29 COMMISSIONER TAPSCOTT: We didn't have an
30 executive meeting.

31 MS. ROBINSON: So that's what happened. We're
32 falling short, beginning of the year. Okay, I promise --

33 CHAIRMAN SWAIN: Ms. Robinson, I'm not asking for
34 your promises anymore. The September meeting, any corrections to the
35 September minutes?

36 COMMISSIONER TAPSCOTT: I'll comment on that
37 meeting --

38 CHAIRMAN SWAIN: No, sir, any corrections to the
39 September meeting.

40 COMMISSIONER ALLEN: Questions?

41 COMMISSIONER TAPSCOTT: This is a correction, sir.

42 CHAIRMAN SWAIN: You said you had a comment.

43 COMMISSIONER TAPSCOTT: Well, I would put it as
44 a comment, but I'll make it as a correction, if you want to. We had a terrible

1 meeting on September 11th, concerning the meetings and everything, and I
2 read the minutes for September 11th and I don't see where my name was
3 reflected in anything. I know I made votes. I know I had discussions. We
4 all had discussions and votes on that meeting, and I see nothing in here.

5 CHAIRMAN SWAIN: Thank you very much for your
6 comment. Anything -- yes, Ms. Allen?

7 COMMISSIONER ALLEN: On page nine, section 2B, it
8 says motion passed, Commissioner Allen and Baker, parenthesis "present,"
9 and at no point in that meeting, did I vote present, that's one thing.

10 Second, I was the one that made the motion, so there's no
11 mention of the fact that the motion was -- how the motion was made.

12 CHAIRMAN SWAIN: You said page nine?

13 COMMISSIONER ALLEN: Page nine, B, at the very
14 bottom, yes.

15 MS. THOMPSON: The present is only a reference to
16 Commissioner Baker.

17 COMMISSIONER ALLEN: How can you tell that? If
18 you were reading that, what would --

19 MS. THOMPSON: Because there's a comma after your
20 name, it says 'Baker', parenthesis, present, comma, but we can certainly
21 correct it, to make sure it just says --

22 COMMISSIONER ALLEN: And to indicate who made
23 the motion.

24 MS. THOMPSON: There is a discussion on the motion,
25 above it, if I recall, and it says -- we can certainly -- it doesn't say the
26 motion, so we can do that.

27 COMMISSIONER ALLEN: Thank you.

28 MS. THOMPSON: So it needs to be corrected to say it's
29 --

30 CHAIRMAN SWAIN: Ms. Allen's motion.

31 MS. THOMPSON: Yes.

32 CHAIRMAN SWAIN: Mr. Baker?

33 COMMISSIONER BAKER: I just want to associate with
34 Mr. Tapscott's motion -- I mean, comments, and I recognize that it was a
35 really difficult meeting and that the normal set up -- I mean, the special set
36 up made it very challenging.

37 I really don't find these minutes of the meeting as a
38 summary of the meeting. Some of our statements are summarized.
39 Certainly, it isn't a flow of the discussion.

40 The votes on the various motions are not recorded. Even
41 the motion that had passed, I abstained from, it's unrecorded -- it should be
42 recorded with Mr. Heinemann and Mr. Pawha, and I guess I'm -- this is why
43 I asked the question earlier.

44 If one of the months has a problem, what do we do if

1 we're voting on them on block?

2 CHAIRMAN SWAIN: Okay, why don't we just go ahead
3 and pass on the September motion, because I'll be right up front, I do know
4 that the transcripts were in excess of 400 pages and because of the acoustics
5 in that building, that was a lot of information that was lost, and we did the
6 best we could in trying to decipher what we had, but let's go ahead.

7 I'll let you what, we'll make another effort at doing the
8 ones for the September. So, if we can just go ahead and delete the ones
9 from September. Ms. Allen?

10 COMMISSIONER ALLEN: When we had said at the
11 beginning that we would do -- we would pass them in block with
12 amendments and we could pass them in blocks and still indicate it was
13 necessary corrections --

14 CHAIRMAN SWAIN: I understand that, but --

15 COMMISSIONER ALLEN: -- rather than going back --

16 CHAIRMAN SWAIN: Okay, yes --

17 COMMISSIONER ALLEN: -- and doing this whole
18 thing all over again.

19 COMMISSIONER BAKER: Right, I understand. I guess
20 the challenge, Commissioner Allen, is that -- I mean, the corrections would
21 be so extensive --

22 CHAIRMAN SWAIN: Yes.

23 COMMISSIONER BAKER: -- for this one that I just
24 don't think we can sit here and edit this document today, and -- I mean, and
25 I -- or we just may need to just say, there's a meeting summary. It may not
26 be possible to ever have perfect minutes for this meeting.

27 So, I just think we have to have a decision on what that
28 is. I don't have an opinion. I just think that these are not accurate.

29 COMMISSIONER TAPSCOTT: Definitely.

30 CHAIRMAN SWAIN: Well, that's the --

31 MS. THOMPSON: For the record, there's a difference
32 between inaccuracy and someone saying they want something added to the
33 --

34 COMMISSIONER BAKER: Or they're not complete,
35 that's --

36 MS. THOMPSON: Okay, that's a better statement.

37 CHAIRMAN SWAIN: Okay, all right. Okay, we'll go
38 ahead and we'll pass on that, but -- November, please.

39 UNIDENTIFIED SPEAKER: I couldn't hear what he
40 was saying. Can you repeat that?

41 CHAIRMAN SWAIN: He was saying that there were
42 some errors in the September. We're going to pass on the September
43 meeting minutes and go to the November. Any corrections for the
44 November minutes? Ms. Allen?

1 COMMISSIONER ALLEN: I have none.
2 CHAIRMAN SWAIN: Okay. Mr. Wright, thank you.
3 Yes, Mr. Chubb?
4 MR. CHUBB: Just a suggestion, since we're going to
5 start the meeting off a little differently --
6 COURT REPORTER: This is off the record comments?
7 CHAIRMAN SWAIN: Yes, this is off the record. Go
8 ahead.
9 (OTR comments)
10 CHAIRMAN SWAIN: Mr. Baker?
11 COMMISSIONER BAKER: Yes, Mr. Chairman.
12 CHAIRMAN SWAIN: We're back on, sir.
13 COMMISSIONER BAKER: Just one comment for the
14 future meetings.
15 CHAIRMAN SWAIN: Yes, sir.
16 COMMISSIONER BAKER: I like the table of contents,
17 but I think it would also be helpful to have the original agendas put into the
18 minutes or at the face of the minutes, because right now, for example, like
19 item five, it says "time and distance meter proposed rule making, special
20 meeting in December." That's a summary of a discussion, but it's not the
21 agenda item. Special meeting came as a result of the agenda item.
22 But if you're reading that, it implies that that was the
23 original agenda item, and so, I just want to make sure we know what the
24 agenda was versus what are the actions that are taken as a result of the
25 agenda.
26 CHAIRMAN SWAIN: Yes, sir, add the agenda to the
27 minutes, yes, sir.
28 COMMISSIONER TAPSCOTT: And that brings up a
29 question that I think you brought up at our last meeting that would eliminate
30 that problem.
31 COMMISSIONER BAKER: Right.
32 CHAIRMAN SWAIN: Okay. I hear you, Mr. Tapscott
33 and Mr. Baker. Are there any other corrections for November?
34 All right, let's move on to December, please. Any
35 corrections for December?
36 COMMISSIONER ALLEN: Mr. Chairman?
37 CHAIRMAN SWAIN: Yes, Ms. Allen.
38 COMMISSIONER ALLEN: Mr. Chairman, I'd like to
39 make a motion that we adopt the minutes, excluding the September
40 minutes, with the amendments that have come forth.
41 COMMISSIONER PAWHA: I second.
42 CHAIRMAN SWAIN: The motion has been made and
43 seconded by -- motion made by Ms. Allen and seconded by Mr. Pawha --
44 COMMISSIONER ALLEN: To accept --

1 CHAIRMAN SWAIN: -- to accept all minutes, with the
2 corrections that were added and to go back and we'll take another look at
3 the September minutes.

4 COMMISSIONER ALLEN: Yes, with the exception of
5 September.

6 CHAIRMAN SWAIN: The exception of September.
7 Any other questions? All right, all in favor?

8 ALL: Aye.

9 CHAIRMAN SWAIN: Opposed?

10 COMMISSIONER TRAVIS: Abstained.

11 COMMISSIONER TAPSCOTT: Abstained, too.

12 CHAIRMAN SWAIN: Okay, was that you, Ms. Travis,
13 that abstained?

14 COMMISSIONER TRAVIS: Yes.

15 CHAIRMAN SWAIN: Okay, and Mr. Tapscott, okay.
16 Okay, the status of the meter rule making, let's jump into that right quick.

17 As you know, the comment period ended yesterday at 5
18 o'clock. We're in the process now of reviewing the comments.

19 There was -- yesterday at about 3 o'clock, there were over
20 1,000 comments that had been submitted. I do know comments were sent
21 to Jim Graham's office, to the Mayor's office and also, they were e-mailed
22 to this office. So, we're putting them all together and we are now going
23 over -- well, going over the comments, and we hope to have that done by
24 the end of the week.

25 COMMISSIONER BAKER: Mr. Chairman?

26 CHAIRMAN SWAIN: Mr. Baker.

27 COMMISSIONER BAKER: Two questions. One, as
28 we've recorded in the November meeting minutes, the Commissioners were
29 to be provided a copy --

30 CHAIRMAN SWAIN: Yes, sir.

31 COMMISSIONER BAKER: -- of the public comments.

32 CHAIRMAN SWAIN: Yes, sir.

33 COMMISSIONER BAKER: And I understand that they
34 are considerable. So, I just wanted to know what fashion will that be done
35 and when we can expect them.

36 Then my second question is, the Council already met
37 before the public comment period was over, on January 3rd --

38 CHAIRMAN SWAIN: Right.

39 COMMISSIONER BAKER: -- and had issued its
40 Committee report. What is the effect of the Council's action then on the
41 final rule making process?

42 CHAIRMAN SWAIN: As far as I know, there is no
43 effect with the final rule making. I did get a chance to speak to someone
44 from Mr. Graham's office, but I also understand that yesterday, Mr. Barry --

1 Councilman Barry, he also submitted some legislation yesterday, and I'm
2 trying to get a copy of that. It's not on the website. I was not able to get it
3 this morning, but I will get you a copy.

4 Going back to the comment section, the comments are
5 going to be both electronically and in paper form. So, and like you said,
6 there are -- there's over 1,000, so it's going to take a little while, but I will
7 make sure that the Commissioners get them as soon as they're ready.

8 COMMISSIONER BAKER: Great, and then I guess just
9 a final question, in terms of process on the rule making, and I appreciate
10 your sending us the actual Mayor's offer order, which to me, seemed
11 appropriate.

12 It still didn't answer my primary question,
13 which is that obviously, the Mayor would delegate to the Chairman of the
14 Commission. The question is for you, as the Chairman of the Commission,
15 how would you like the input of the Commissioners, and in what format
16 will we do that?

17 Should we each write you individually? Do you expect
18 that we'll have a discussion as the Commission? That was really my
19 question.

20 You're the Chair, and it's your Commission, and you can
21 either consult your Commission or not consult your Commission, but that's
22 your -- and that just tells us what we need to know and how -- what we need
23 to prepare as work.

24 CHAIRMAN SWAIN: Okay, Mr. Baker, I do plan on
25 after -- as soon as I get these minutes -- I'm sorry, get these comments all
26 tabulated and we go ahead and make the final adjustments, I do plan on
27 calling the Commission together, presenting you with a copy, also, we're
28 going to talk about them and see if you have any additional comments, and
29 then I'll make the decision from there, sir.

30 COMMISSIONER BAKER: All right.

31 CHAIRMAN SWAIN: Thank you. Hold on, Mr.
32 Tapscott?

33 COMMISSIONER TAPSCOTT: Yes, I know this is not
34 in your purview, but how come in the meeting that Mr. Graham held, no
35 one that I know of -- or I wasn't, notified that there was going to be a
36 meeting --

37 CHAIRMAN SWAIN: I wasn't either.

38 COMMISSIONER TAPSCOTT: You wasn't either?

39 CHAIRMAN SWAIN: I wasn't either. I found out about
40 it 11 o'clock that night, when someone faxes -- Ms. Thompson called me
41 and said, "Hey, they're on TV."

42 COMMISSIONER TAPSCOTT: Well, I called Jim
43 Vacca that morning --

44 CHAIRMAN SWAIN: David Vacca.

COMMISSIONER TAPSCOTT: David Vacca, I called

1 him that morning on a different matter, and I asked him, I said, "How's
2 things going?" He said, "Well, pretty good." I said, "Is there any meetings
3 or anything scheduled on anything?"

4 He didn't say yes or no, but he said, "I'll get back with
5 you on that later," and the meeting was the next hour.

6 CHAIRMAN SWAIN: You pretty much got what I got.
7 So, Ms. Travis?

8 COMMISSIONER TRAVIS: Yes, I am just saying, it's
9 just ridiculous.

10 CHAIRMAN SWAIN: Okay, Mr. Wright?

11 MR. WRIGHT: Mr. Chairman of the Commission, I'd
12 like to know if this Commission is going to make a recommendation to the
13 Mayor. Do you know? You may not know, is he going to make his
14 decision prior to the Commission getting your comments?

15 CHAIRMAN SWAIN: No.

16 MR. WRIGHT: All right, then there was an article in The
17 Post, I think, on December 22nd. I was out of town, but I got a call about it,
18 and I was rushing yesterday when I wrote my comments, and I didn't get a
19 chance to include that.

20 Is that -- that article, I'm sure you've seen it. Was that
21 going to be included in the comments you're going to deal with?

22 CHAIRMAN SWAIN: The article featuring the picture
23 of Mr. Tapscott?

24 MR. WRIGHT: Yes, and the survey.

25 CHAIRMAN SWAIN: Yes.

26 MR. WRIGHT: That's going to --

27 CHAIRMAN SWAIN: All your information that you
28 submitted yesterday --

29 MR. WRIGHT: Well, I didn't submit that.

30 CHAIRMAN SWAIN: Well, you submitted the --

31 MR. WRIGHT: I submitted the results of the survey.

32 CHAIRMAN SWAIN: Yes.

33 MR. WRIGHT: Which is part of the story, but that sort
34 of was a separate article all together, which is, in my mind, should be
35 considered by the Commission. Whether they do anything about it or not
36 it's valuable information.

37 They did come into my house and look at the surveys, so
38 they've verified it.

39 CHAIRMAN SWAIN: I understand that, Mr. Wright.

40 MR. WRIGHT: But I'm saying, I did not personally
41 include that in mine, which I should have, but I was in a rush then. I was
42 wondering, would you -- would the Commission look at that article as part
43 -- consider that along with the other comments, that's really what I'm saying.

44 CHAIRMAN SWAIN: I will consider it, Mr. Wright,

1 and I'll let you know.

2 MR. WRIGHT: All right. Then the Commission --
3 Graham's, their meeting on the 3rd, does that -- is that document going to be
4 considered by the Commission?

5 CHAIRMAN SWAIN: Yes.

6 MR. WRIGHT: Okay.

7 CHAIRMAN SWAIN: Yes, sir.

8 MR. WRIGHT: That's all I wanted to know. So, that
9 would give you the whole picture.

10 CHAIRMAN SWAIN: And that's all I want.

11 MR. WRIGHT: Okay, thank you.

12 CHAIRMAN SWAIN: Thank you. Mr. Baker?

13 COMMISSIONER BAKER: I'm sorry, Mr. Chairman.
14 But we just received this this morning. So, we haven't had a chance to read
15 through it.

16 CHAIRMAN SWAIN: Yes, sir.

17 COMMISSIONER BAKER: And I just -- if I could just
18 ask if you and our Council could get clarification from the Council or from
19 the Mayor's Office, about the effect of the Council's action, because my
20 indication -- and I'm not an attorney, is that if the Council adopts this, it's set
21 it into law, in which case, we can't overrule the Council.

22 Quite frankly, I don't need to read 1,000 comments if the
23 work is done, and so, I mean, it's just a matter of respect for our time. And
24 so, if we could find out sooner, rather than later, about the effect of the
25 Council's action, it would be very helpful.

26 CHAIRMAN SWAIN: Mr. Baker, I will make that
27 phone call as soon as we leave here, and I will try to have an answer for you
28 by the close of business today, sir.

29 COMMISSIONER BAKER: All right.

30 COMMISSIONER TRAVIS: Mr. Chairman?

31 CHAIRMAN SWAIN: Yes, ma'am.

32 COMMISSIONER TRAVIS: In reference to what Mr.
33 Baker has said, whatever the Council's action is, I'm not aware of it as a
34 Commissioner. The last thing I heard was that they were saying that he
35 wanted time and distance meters put in by April 1st and that he was getting
36 some comments from the public and if he got enough comments from the
37 public, he would take another look at the situation.

38 If there's anything different from that, as a
39 Commissioner, I'd like to be abreast of what's happening now, because I
40 don't know what's happened since the time that I saw the Mayor on TV, and
41 that was probably almost a month ago.

42 CHAIRMAN SWAIN: Okay.

43 COMMISSIONER TRAVIS: So, is there any
44 information that you can bring me of -- update me or with Mr. -- the action

1 that Mr. --

2 CHAIRMAN SWAIN: Mr. Graham.

3 COMMISSIONER TRAVIS: -- Commissioner Baker is
4 talking about right now. Could you update us on that? Maybe the others
5 know, I don't know.

6 CHAIRMAN SWAIN: What it was is that Mr. Graham
7 had a -- there was a -- he had a meeting of the Committee on the Public
8 Works and the Environment on the 3rd, and they submitted a document
9 talking about the meters versus -- talking about zone meters and also talking
10 about time and distance meters.

11 I got this document yesterday. I made it available to the
12 other Commissioners as soon as I got it. We had not had a chance to
13 contact you. It was late when I got this, and there's also another one out
14 right now, having to do with Mr. Barry and Councilman Mendelson that
15 came out yesterday, that we attempted to get this morning and were
16 unsuccessful in getting that.

17 I will continue to try to get that document, and we will
18 definitely make sure that you are provided with the information.

19 COMMISSIONER TRAVIS: Is it something that you
20 could summarize in terms of the ones that Graham put out and Mr. Barry
21 put out, that you do have --

22 CHAIRMAN SWAIN: Well, I do not have anything in
23 reference to what Mr. Graham and -- I'm sorry, what Mr. Mendelson and
24 Councilman Barry -- I have not seen it. I haven't heard any parts of it. I just
25 know that I caught a snippet on the TV, as saying that they had done this,
26 but it had not been forwarded to us.

27 The one with Mr. Graham, I did get a chance to speak to
28 David Vacca in Mr. Graham's office and from what I surmise of it -- and I
29 guess you -- from what I surmise with Mr. Graham's thing is that basically,
30 what they were saying is that we're going to have meters. It's either going to
31 be a time and distance meter or it's going to be a zone meter. They really
32 didn't make any definitive statement on it. Yes, Mr. Baker?

33 COMMISSIONER BAKER: Yes, I mean, through the
34 Chair, to Mr. Tapscott, the Committee held a hearing, which was held
35 January 3rd. So, it was obviously announced during the holidays and held
36 quickly, which isn't really a good way to do the people's business.

37 But the -- there are three areas that I think are important
38 for us to clarify. The report says that it will serve to communicate the
39 recommendations of the Committee of Public Works and the Environment
40 on this important issue.

41 CHAIRMAN SWAIN: Right.

42 COMMISSIONER BAKER: So, it could be just
43 recommendations.

44 CHAIRMAN SWAIN: Yes, well --

1 COMMISSIONER BAKER: Which is fine, but the
2 Committee also took two votes, and I'm not sure what -- I mean, the votes
3 could just be on the recommendations, but they also could be more binding
4 than that, and I just think we need clarification.

5 CHAIRMAN SWAIN: Okay, well, let me --

6 COMMISSIONER BAKER: Let me just point out what
7 those two are.

8 CHAIRMAN SWAIN: Okay, go ahead, sir.

9 COMMISSIONER BAKER: One is on the flag fee,
10 which is the drop rate, where the Committee voted five to zero to accept
11 that. That's in the meter regulation -- I mean, fare regulations, and then the
12 second was a vote on the final -- on the overall regulations, where those
13 passed unanimously.

14 And so, they could be just recommendations, but they
15 could also be binding.

16 CHAIRMAN SWAIN: Okay, let me give you what the
17 conclusion statement for this whole thing says, "Considering the foregoing,
18 we believe that either the meter system -- either meter system would comply
19 with the Levin law and meet the needs of the District of Columbia."

20 COMMISSIONER BAKER: Where do you find that?

21 CHAIRMAN SWAIN: It's on page eight, the top of the
22 page. Well, it starts on the bottom of number seven, it says 'conclusion' --

23 COMMISSIONER BAKER: Right.

24 CHAIRMAN SWAIN: -- and then there's a two-line
25 statement that says, "Considering the foregoing, we believe that either meter
26 system would comply with the Levin law and meet the needs of the District
27 of Columbia."

28 COMMISSIONER BAKER: I see, okay.

29 CHAIRMAN SWAIN: Mr. Bethea, I saw your hand.

30 MR. BETHEA: Ron Bethea, Independents 252, my
31 concern about this whole issue about --

32 CHAIRMAN SWAIN: Mr. Bethea, could you come up
33 to the table, please? Thank you.

34 MR. BETHEA: Ron Bethea, Independent 252. My
35 concern concerning this meter issue and the issue being discussed presently,
36 in section 825-1, they have an infraction section that deals with fines, and I
37 need to know from this Commission what impact did this Commission have
38 in setting any of these fines, because if my recall serves me correctly, the
39 hearing that Councilman John Graham had, these fines were done by the
40 Mayor's General Counsel, Peter Nickles.

41 Did this Commission have -- play any role in setting
42 these fines? That is my question.

43 CHAIRMAN SWAIN: I'm about to answer your
44 question. Peter Nickles did not have anything to do with the setting of these

1 fines. Peter Nickles was never at the table.
2 MR. BETHEA: Who did?
3 CHAIRMAN SWAIN: I did.
4 MR. BETHEA: You set these \$1,000 fines, sir?
5 CHAIRMAN SWAIN: Yes.
6 MR. BETHEA: Tampering, operating with a meter?
7 CHAIRMAN SWAIN: Yes.
8 MR. BETHEA: Improper use of off-duty sign?
9 CHAIRMAN SWAIN: Yes.
10 MR. BETHEA: Did any of the --
11 CHAIRMAN SWAIN: No.
12 MR. BETHEA: -- Commissioners have any impact?
13 CHAIRMAN SWAIN: No.
14 MR. BETHEA: You just did this?
15 CHAIRMAN SWAIN: Yes.
16 MR. BETHEA: Okay. Also, under the section that deals
17 with the infractions for the meter cut, the meter businesses, those fines were
18 also set by you, sir, with no --
19 CHAIRMAN SWAIN: Yes.
20 MR. BETHEA: -- no input from anyone?
21 CHAIRMAN SWAIN: No, there were some individuals
22 that assisted, but I basically did it all, yes.
23 MR. BETHEA: My question then to you, sir, is how --
24 and what is meant by non-resident under unlicensed operator, when you say
25 non-resident, \$500 fine. What do you mean by that?
26 CHAIRMAN SWAIN: Mr. Bethea, all of this is still
27 under the -- I mean, it's coming up under the comment. I'm not going to do
28 anything having to do with discussing what those say, until after I go
29 through there, because they're still subject to review, and what has to
30 happen is that we're finishing up the final comment period. Some things are
31 going to change and instead of me sitting here wasting your time, talking
32 about what could be, we'll have that conversation --
33 MR. BETHEA: I'm trying to understand something --
34 CHAIRMAN SWAIN: Sir, I just told you. All of that
35 comes under the final comment period. It comes under review, and I'm in
36 the process of reviewing it now. So, until I go back and look at all the
37 comments, nothing is final.
38 MR. BETHEA: So, what you're saying to me, Mr. Swain,
39 is that you are the one that came up with these fines. You have the final
40 comment and you have the final say-so, and no members of this
41 Commission will have any input into this process?
42 CHAIRMAN SWAIN: Mr. Bethea, that is not what I
43 said.
44 MR. BETHEA: I'm asking that.

140

141
142
143
144

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

(202) 234-4433

1 CHAIRMAN SWAIN: Mr. Bethea, that is not what I
2 said. Now, if you would allow me to answer the question, I will answer the
3 question.

4 MR. BETHEA: I don't know whether you can answer it
5 or not, sir, because you told me you needed final review. I'm listening to
6 you.

7 CHAIRMAN SWAIN: Sir, I said they're under final
8 review. I didn't say I needed final review. I said they're under final review.
9 Excuse me, Mr. Tapscott. Yes, sir?

10 MR. ROGERS: Good morning. My name is Mr. Rogers.
11 The question is, that I'd like to ask is, how are these meetings set up and
12 how are they posted and notified -- how are people to find out about these
13 meetings? Are they posted and notified on the website?

14 CHAIRMAN SWAIN: They're on the website, yes, sir.
15 They're on the website.

16 MR. ROGERS: All the meetings that -- dealing with
17 Taxicab Commission?

18 CHAIRMAN SWAIN: Yes, sir.

19 MR. ROGERS: Or taxicab rules and infractions or
20 anything --

21 CHAIRMAN SWAIN: It's on the website.

22 MR. ROGERS: -- are set up on the website?

23 CHAIRMAN SWAIN: Yes. Ms. Robinson?

24 MS. ROBINSON: Carolyn Robinson, Yellow Cab 800.
25 I just had a quick question, I guess, a point of clarity.

26 I understand at the last -- at the December meeting, you
27 stated that you were given executive privilege or an executive order to make
28 all the decisions pertaining to the meters, that you were given this task from
29 the Mayor.

30 Well, my question is, if you had the executive order to
31 take care of all of this, why was this Committee meeting held, and
32 unbeknownst to you and us, just for the Committee to discuss issues that are
33 just tentative?

34 CHAIRMAN SWAIN: What Committee meeting are
35 you referring to?

36 MS. ROBINSON: This January 3rd meeting.

37 CHAIRMAN SWAIN: I think you have to ask Mr.
38 Graham that, ma'am.

39 MS. ROBINSON: But you have the executive order to --

40 CHAIRMAN SWAIN: Ms. Robinson, you have to ask
41 Mr. Graham why Mr. Graham did what he did -- you have to ask Mr.
42 Graham. You're asking me to answer why Mr. Graham did something.
43 You have to contact Mr. Graham.

44 MS. ROBINSON: No, but you have the executive order

1 --

2 CHAIRMAN SWAIN: Ms. Robinson, you have to
3 contact Mr. Graham. I don't know why Mr. Graham did it. You have to
4 contact Mr. Graham. You're going to ask me why did he do what he did.
5 He did it. You have to contact him.

6 MS. ROBINSON: Okay, I just have one more question in
7 regards to the comment period. You said you received over 1,000 entries,
8 and they're going to be done by the end of this week?

9 CHAIRMAN SWAIN: If I can get out of here.

10 MS. ROBINSON: You can comment on 1,000
11 comments by the end of the week?

12 CHAIRMAN SWAIN: Ms. Robinson --

13 MS. ROBINSON: I'm just asking.

14 CHAIRMAN SWAIN: Ms. Robinson, I'm about to
15 answer you.

16 MS. ROBINSON: Okay.

17 CHAIRMAN SWAIN: A lot of the comments are on the
18 same form letter, and they're saying almost exactly the same thing. So, it's
19 not going to be almost impossible to do it. All we have to do --or all I have
20 to do is get them all together, put them on a chart and look at the questions.

21 But most of the questions are the same exact thing. "The
22 four dollar drop fee is too high. The four dollar drop fee is too high. The
23 four dollar drop fee is too high." If I got 500 people saying the four
24 dollar drop fee is too high, believe me, it's not going to take me three years
25 to sit there and -- go down there and say, "I've got 500 people saying the
26 four dollar drop fee is too high." Thank you, ma'am.

27 MS. ROBINSON: Okay, I just had one more question.

28 CHAIRMAN SWAIN: No, you said you had one more
29 question long ago.

30 MS. ROBINSON: I was just concerned about this Levin
31 law. Is that a law?

32 CHAIRMAN SWAIN: Ma'am, you have to ask Jim
33 Graham. That is Jim Graham's document.

34 MS. ROBINSON: Okay.

35 CHAIRMAN SWAIN: Mr. Price?

36 COMMISSIONER BAKER: Mr. Chair?

37 CHAIRMAN SWAIN: I'm sorry.

38 COMMISSIONER BAKER: I think for Ms. Robinson,
39 that's a simple question. The Levin law is the authorizing amendment and
40 the -- it was the one that requires that the Mayor either adopt meters or opt
41 out.

42 MS. ROBINSON: So, that's not really a law?

43 COMMISSIONER BAKER: It is a law. That is a law.

44 CHAIRMAN SWAIN: They just gave it that name.

1 COMMISSIONER BAKER: It's the Congressional
2 directive in the appropriations.

3 CHAIRMAN SWAIN: Mr. Price?

4 MR. PRICE: My name is Nathan Price. I'm the
5 spokesman for D.C. Professional Taxicab Driver's Association. What has
6 been somewhat disturbing to me is, as we talked about the last time we
7 were convened, and Mr. Baker talked about, you know, their input and what
8 they were doing and I was saying every person on this Commission has a
9 fiduciary responsibility to taxicab drivers, because you are in charge of their
10 livelihoods, and you impact not only their lives, but the lives of their
11 families as well.

12 What is disturbing to me is that when I looked at -- not
13 Title 31, because that doesn't mean a hill of beans. But when I looked at
14 D.C. Code and it deals with how actions of the Commission take place, it
15 was the taxicab drivers in Washington that fought for a Taxicab
16 Commission. It wasn't the government. The government fought against it.
17 The government prefers the taxicab drivers keep quite.

18 Now that we have a Taxicab Commission and we have
19 Commissioners on there, some of them speak for the taxicab industry's best
20 interests, others don't. But yet and still, the most important thing is that no
21 matter what the Mayor has proposed, it is imperative that the letter of the
22 law be upheld. It is imperative that the Commissioners play a part, and it's
23 also imperative that the whole industry is aware of how these things take
24 place, because if it's not, then what we have here is not democracy, and
25 that's what's disturbing to me.

26 You know, if you think we are going to roll over and die,
27 as you know, we will not. But I would just hope somewhere in an
28 executive meeting, this body up on this dias gets together and sends a strong
29 message to the Mayor, because the recommendation, whether the Mayor
30 accepts it or not, is supposed to come from this body. How that -- those
31 things are implemented defines whatever, comes from this body, because
32 you're the people who we hold accountable. You're the one's that have the
33 fiduciary responsibility. Not just the Chairperson, but all of you. So, all of
34 you are accountable to us. That's all I'm saying. Thank you.

35 CHAIRMAN SWAIN: Thank you, Mr. Price. Yes, Ms.
36 Travis?

37 COMMISSIONER TRAVIS: I'd like to respond by
38 saying that as a Commissioner myself, I'm speaking for myself now and I
39 certainly have tried not to shirk any responsibility, Mr. Price, what-so-ever.

40 MR. PRICE: Yes.

41 COMMISSIONER TRAVIS: I did go to -- when we're
42 talking about the fines and moving on to the next step, Chairman Swain will
43 tell you that I told him that I definitely wanted some input into what's taking
44 place from here on out, and that's when Mr. -- Chairman Swain presented

1 the executive order from the Mayor, authorizing him to have exclusive -- to
2 make the exclusive decisions as to implementation of this order.

3 Now, Commissioner Allen here knows that law back and
4 forth. You know, I don't have to get into that, to that point. So, I don't
5 know what Code 50 says, and I'm wondering does the Mayor exempt Code
6 50, what's in there?

7 But apparently, according to what Chairman Swain has
8 said, well, that's that it does. So, I don't know from a legal point of view. It
9 disturbs me, but apparently, there isn't anything that I can do about it, but it
10 does disturb me that we don't have the kind of input that we -- at least, that I
11 would like to have, in terms of this transition.

12 MR. PRICE: Yes, because see, one of the things that our
13 complaint is, for the past 15 years, is that the Commission is made up of
14 candlestick makers, brick layers, carpenters, and home owners, home
15 makers, and things like that. Everything but generally people from the
16 industry.

17 No Commission or Board is made up like that, except for
18 the Taxicab Commission. That, to me, is overly disturbing. But after these
19 people come in and put their earnest time in and they listen to the hearts and
20 they -- the heart beats of the drivers and they feel their pain, they make
21 decisions, not only for the riding public, for the drivers as well, because that
22 is the area of the Taxicab Commission.

23 So, therefore, when that takes place, we know -- we think
24 we have a voice that at least gives an honest decision, and that's all we're
25 asking for. We don't ask for anything that's overwhelming in our favor, but
26 at the same time, we realize the health of the riding public is as important to
27 us as it is to you all because they are our business.

28 So, therefore, for you all to be excluded out of the
29 process is disturbing.

30 COMMISSIONER BAKER: Mr. Chairman?

31 CHAIRMAN SWAIN: Mr. Baker?

32 COMMISSIONER BAKER: Yes, I just want to reflect
33 on something that you said earlier this morning, and I mean, I just want to
34 also point out things that I think are appropriate.

35 When Ms. -- when Senator Levin applied the law, he
36 gave the Mayor the authority to make a decision, and that was appropriate.
37 He didn't say the Mayor and the citizens of the District of Columbia or the
38 Mayor and the Council. It was the Mayor; the Mayor is the Chief
39 Executive.

40 When the Mayor delegated the authority, he said the
41 Chairman, and I feel that that was appropriate. He didn't say the
42 Commission. He didn't say the Mayor. He said the Chairman.

43 As somebody who has run organizations, whenever I
44 delegated something to one of my directors, I asked the director to make a

1 decision. I expected that they were going to consult with their staff, their
2 volunteers, other people, because that's what a good manager does.

3 So, the question to me is not about the Mayor having
4 delegated the authority to the Chairman. That's appropriate. That's who
5 works for the Mayor. The only question that I've asked and which I think
6 that the Chairman answered earlier today, and we just have to hold him at
7 his word, is that we listened at our special meeting in December to the
8 drivers and others who came. There has been public comment. Those are
9 coming in, and now the Chairman has indicated this morning -- I don't think
10 we should overlook it, and I think in this conversation we are, that he plans
11 now to convene the Commissioners together to give additional input.

12 So, hearing that from the Chairman, I don't feel slighted.
13 I'd like to know what the process is. We all have to balance our work and
14 so that our time isn't wasted. But I'm assuming that just as you're asking,
15 that the Chairman has now committed to us, that there's going to be an
16 honest and transparent process, where with the public comments, where
17 with what we've heard from and you and now, with the Commissioners
18 convening together, we will give recommendations. Hopefully they will be
19 good and accepted, where they're appropriate, and that, then the Mayor and
20 he will sit down and adopt them, and they will make some decisions we
21 won't agree with, but hopefully they'll make many decisions that we do
22 agree with.

23 That's what I heard the Chairman say. If I'm incorrect in
24 that interpretation, I'd like to be corrected. But I just don't want us to at least
25 not acknowledge what I thought I heard him say.

26 MR. PRICE: Mr. Baker, I can respect your opinion. On
27 the other end, this is not the private sector.

28 COMMISSIONER BAKER: Right.

29 MR. PRICE: This is the government and the title says
30 that there's a certain process, how things go, and the only thing I want is that
31 -- because if you treat it like it's the private sector, then you're not talking
32 about democracy.

33 The private sector is like one person who is a sole
34 proprietor for a corporation, and they do things for the best interest of either
35 the owner or the stock holders, and that's all I'm saying. Thank you very
36 much.

37 CHAIRMAN SWAIN: Mr. Tapscott?

38 COMMISSIONER TAPSCOTT: Yes, I would like to get
39 back on something that you just said, Mr. Price. I feel personally, myself,
40 that when this Commission was set up in 1986 or 1989 --

41 MR. PRICE: The Taxicab, after '85 -- was actually
42 started to come together in '87.

43 COMMISSIONER TAPSCOTT: Eighty-seven, that it
44 was taken into consideration by the Council that they set this up. Mrs. Betty

1 Ann Kane had a lot to do with it, and I really don't think it is in the best
2 interest for someone to take the responsibility away.

3 Even though Mr. Swain is a paid employee, we are all
4 appointed by the Mayor. We have all got a judicial responsibility, and I
5 think, in my opinion, that -- if it's worth anything, that to give one person,
6 whether it's me or anyone else, sole responsibility, you're doing away with
7 the intent of what this Committee was to do.

8 This Committee was supposed to be set up and held and
9 voting on items, taking it to the public and the drivers. But by not having
10 any input into this, I think we've been disrespected very highly, because I'm
11 wondering -- I can't read the Mayor's mind, whether the Mayor meant for Mr.
12 Swain to do it all by himself or whether he meant for his Commissioners, he
13 consult his Commissioners.

14 We were not consulted. So, therefore, we hold no
15 responsibility in this issue.

16 CHAIRMAN SWAIN: Thank you very much. Mr.
17 Abdulkarim and then there's Mr. Wright and there's you, sir.

18 MR. AHMED: Good afternoon to everybody. First of
19 all, I want to ask a question, because I really came to a lot of meetings, and
20 we need to have our meeting -- at least, we have to have something we
21 accomplish.

22 We always come here and we back and forth, so since
23 you allow me to go back and forth, I'm going back to September 11th, the
24 time of the vote.

25 The problem we are in today -- and I see right now, those
26 who are responsible, they are the ones who are attacking. So, I know most
27 cab drivers here, they forgot. Let's remember who voted for the meeting?
28 Mr. Pawha, Heinemann and Baker, and they're the ones last meeting, when
29 we're here, they take us back and forth. You know why? Because they
30 don't drive taxi. They are volunteer Commissioners here, and they just want
31 to hold this industry for forever.

32 So, it's up to you, you cab drivers, to make a decision
33 what is good for you. Don't let these people give you a nice talk. Mr. Baker
34 says he's not a lawyer. If he's not a lawyer, why is he doing interpretation of
35 the rules here?

36 So, let me make my point here. What we need now is
37 hearings. The problem we have here is, the meter, they talk about the
38 meter. We have a lot of other problems our industry, which is, we don't
39 have no space here. And those agenda -- I read the agenda, it's not one of
40 them here.

41 Last Friday, police almost lock me up. The reason why,
42 because unmarked car with a cruising light pick up customers. I call the
43 police. I stop the guy. Police, he arrest me. He want to arrest me because
44 he told me, "You have no right to tell me what to do." He's a police officer.

1 He's a servant for the public.

2 My point is here, you got -- we're missing the point here.
3 Mayor make a decision. Mr. Baker is talking about Carl Levin. Carl Levin,
4 he is the one who dictates to this city and ask -- we need a meter. He is
5 from Michigan.

6 Did we go and protest his office? Did we send a letter?
7 Did we e-mail? There is less focus -- and have this, our -- and to be honest
8 with you, right now, I'm looking for another job. So, if you don't see me
9 driving taxi, I'm going to wish you luck.

10 These guys are fooling us, Baker, Heinemann, and
11 Pawha. We need to get rid of these people, then we can do something.

12 CHAIRMAN SWAIN: Mr. Wright was next and then
13 you're after Mr. Wright.

14 MR. WRIGHT: Good morning again. William J.
15 Wright, Chairman of Taxi Events Group. With all due respect to Mr. Baker
16 and anyone who might have his views, Senator Levin simply said a meter.
17 He didn't say what kind of meter. He also said the Mayor could option out,
18 which mean he could have left it as it is.

19 Now, everybody is very conveniently overlooking that.
20 This is the decision that the Mayor has made, not Congress. The Mayor has
21 made this decision, not the Congress.

22 Now, Baker did not say that you had to have \$1,000 fine.
23 He said a meter, which means that everything that the Mayor is doing, the
24 Mayor is doing it, not Baker and not the Congress.

25 Therefore, when the Mayor goes outside of his authority,
26 he's just as wrong as anybody else, and the Mayor is outside of his authority
27 when he gives the Chairman authorization. But I bet you this, when it's
28 discussed before the City Council, the Mayor is not going say he gave him
29 that authority. He is going to say, "That's his rules," and that's the way we
30 get it.

31 When we go down to City Council, they tell us, "This
32 comes from the Mayor's Office." They don't even mention Mr. Swain.
33 They say, "This comes from the Mayor's Office," and the Mayor has -- and
34 if Mr. Baker is correct, then the Mayor has the authority to do that. But not
35 Mr. -- and he can't give it to Mr. Swain, because if he gives it to Mr. Swain,
36 he is violating the thing that set the Commission up, because when the
37 Commission was set up, it was set up as a Commission, not one person. It
38 was set up as all 18 of us at that time.

39 So, Mr. Baker is completely wrong. The Mayor has the
40 authority to tell the Chairman the same thing to do, but he can't tell him to
41 do something that the City Council has the authority over, and the City
42 Council has the authority over what we're talking about here.

43 CHAIRMAN SWAIN: Thank you, sir.

44 COMMISSIONER BAKER: Mr. Chairman, may I

1 respond?

2 CHAIRMAN SWAIN: Mr. Baker, go ahead.

3 COMMISSIONER BAKER: First, let me just clarify that
4 I totally agree with you about what the law says. Ms. Robinson asked what
5 was the Levin law and I said that it authorized the Mayor to either adopt
6 meters or opt out. So, let's be clear.

7 MR. WRIGHT: No fines.

8 COMMISSIONER BAKER: I did not go into that. I am
9 not involved in the adoption of the -- the drafting of these regulations, some
10 of which I agree with, some of which I do not.

11 I totally agree with you, I believe that the Mayor has the
12 authority to give to the Chairman, the development of the final rules. What
13 I don't think is clear -- and this is where we agree, is what are the rules then,
14 on how they're adopted?

15 Do they need to be voted on by the Commission? Do
16 they need to be voted on by the City Council? Can the Mayor just do it?
17 These are the questions I've been asking since November.

18 So, you know, I don't feel like I have answers, and I
19 certainly have not given any answers that I hope that I could be wrong on.
20 The only answer that I've said is that because this authority was given to the
21 Mayor, the Mayor has absolute authority to transfer those to one of his staff
22 persons.

23 Now, what the rest of the rules of the city are, I don't
24 think are clear. Do these -- how each of these regulations now, need to go
25 for final rule making, be voted on by the Commission or not, has never been
26 made clear to us.

27 And so, how they transfer from a draft proposal of the
28 Mayor's Office, which the Chairman had input in, to how they are actually
29 to become the regulations of the District, has not been made clear to us.

30 And so, I don't feel like I've commented, in any way, to
31 be wrong and I think that that's the critical question and we have from now
32 until when these rules are put into whatever register they're going to be put
33 into, to clarify them.

34 MR. WRIGHT: Mr. Baker, as a member of the
35 Commission, are you not concerned enough -- and I'm not saying you aren't,
36 are you not concerned enough to know what role that you ought to play in
37 this Commission, by writing a letter to the Mayor or someone, to see
38 whether you have an input in this or why aren't you? Do you not think that's
39 important for you, as a Commissioner?

40 COMMISSIONER BAKER: Let me just tell you, I
41 mean, one, in moving a decision that made sure we have a special meeting,
42 so we heard your voices, we would not have had that, had I not pushed for
43 that meeting.

44 Had we not also been moving to ask what are the rules. I

1 think that one, I am asking all the questions here, moving the processes here
2 and asking the questions downtown that I need to, that at the end of this
3 process, it is going to be transparent and clear.

4 MR. WRIGHT: But I understood you to say you didn't
5 know, so --

6 COMMISSIONER BAKER: I said I didn't know --

7 MR. WRIGHT: What kind of answers did you get?

8 COMMISSIONER BAKER: -- today, but I will find
9 those answers.

10 MR. WRIGHT: As of today, you don't know?

11 COMMISSIONER BAKER: As of today, but don't be
12 deceived. I'm asking questions and I've asked questions today about
13 Council's role. I want to know those and we're going to find them.

14 MR. WRIGHT: Are you asking at the Mayor's Office?

15 COMMISSIONER BAKER: I'm asking every place I
16 need to ask.

17 MR. AHMED: But you when you say the Mayor --

18 MR. WRIGHT: I'm asking if he's asking the Mayor?

19 MR. AHMED: He's not asking --

20 MR. WRIGHT: I understand that.

21 COMMISSIONER BAKER: When I get these responses
22 today, from -- or this week, from the Chairman's Office, if I need to call the
23 Mayor's Office -- I just returned to the country on Sunday. If I need to call
24 the Mayor's Office, I will call the Mayor's Office.

25 MR. WRIGHT: Because I would hate for you to sit up
26 there and not -- and let your authority be pushed under the rug.

27 COMMISSIONER BAKER: Believe me, that is just not
28 how I operate in the world.

29 MR. WRIGHT: Okay.

30 COMMISSIONER BAKER: I am on the --

31 MR. WRIGHT: Because we depend on the Commission.

32 COMMISSIONER BAKER: I understand that, but let's
33 just see --

34 MR. WRIGHT: And if you're saying I don't know, you're
35 not playing the role you're suppose to play.

36 COMMISSIONER BAKER: I don't know, at this
37 moment and I don't have a problem saying, "I don't know at this moment,"
38 but I will have an answer.

39 MR. WRIGHT: Thank you.

40 CHAIRMAN SWAIN: Thank you, Mr. Wright.

41 MR. WRIGHT: Thank you.

42 MR. BROADUS: Good morning. My name is Alonzo
43 G. Broadus and I drive a cab. I've been retired 31 years. I started in 1949. I
44 remember in 1990, that was the last time I saw you since then.

1 CHAIRMAN SWAIN: Nineteen-ninety-four.

2 MR. BROADUS: My problem is this. They've actually
3 said a lot of things that I decided is true. For example, they passed a ruling
4 because the City Council -- it went to the City -- for of all, Causton Toney
5 approve it. These people did not do anything until after about four or five
6 months ago and they didn't -- they were divided.

7 But the thing about it is, how do you -- where did you
8 start about the meters? They didn't start it here. They started it all the way
9 over to Causton Toney, like you are here. They had nothing to do with it.

10 So, we can't blame them. We have to blame Causton
11 Toney first and then, I told the Mayor that they would have a big strike. We
12 should have had a strike on the Tuesday and then the next time, on a
13 Thursday, because it would have said something Congress. That ruling
14 wouldn't have been passed.

15 It was passed in October 2007. Did you know that? Or
16 2006, then Mayor Williams -- because I campaigned for him, he told you all
17 -- you'll let the other Mayor decide and he can opt it out or do whatever he
18 want to.

19 But what I'm trying to tell you is, most of the time, you
20 folks decide on a meeting and you decide on rules and regulations, but you
21 all didn't do anything about it. You weren't here then, I don't think. But
22 they'll tell you, they had a meeting a year afterwards, over at 1901 and they
23 were divided.

24 Now, I don't think that's fair to these Commissioners and
25 I think that you have no right to decide on -- if it's 8,000 cab drivers, just
26 you or the Mayor. These people start first.

27 Now, why would you start last week? Can you answer
28 that?

29 CHAIRMAN SWAIN: I didn't start last week.

30 MR. BROADUS: You weren't here. Well, anybody who
31 has been here, he'll tell you, they didn't do that until after they had gone up
32 to Congress and everything and it was on the back of the budget.

33 CHAIRMAN SWAIN: Okay, Mr. Broadus, everybody
34 here acts as though I picked up a piece of paper and filled out a Mayor's
35 order and put my name on it. Everybody here.

36 Now, let me --

37 MR. BROADUS: You can't say everybody.

38 CHAIRMAN SWAIN: Okay, most people figured that I
39 picked up a blank piece of paper, put the Mayor's authority and gave it to
40 me as a Christmas gift. Now, let's be right up front.

41 MR. BROADUS: Okay.

42 CHAIRMAN SWAIN: This issue has been going for
43 years. The meter issue has been going on back and forth, back and forth,
44 back and forth.

1 MR. BROADUS: Where did it start though? I'm talking
2 about the court was passed the last time.

3 CHAIRMAN SWAIN: Mr. Broadus --

4 MR. BROADUS: Where did it start? You said back and
5 forth and back and forth. All these people, when we had the Commission,
6 they -- before you came here, before Causton Toney came here, they were
7 the ones who voted on things.

8 They didn't vote on that. That was passed before they
9 even tried to vote on it.

10 CHAIRMAN SWAIN: Mr. Broadus, like I said, the
11 authority was given to me. I didn't walk out there and say, "Give me a
12 Christmas gift." It was given to me they asked me to do a job.

13 I have done the job. I have submitted the information.
14 I've talked to other jurisdictions. I've looked at other meter companies. I
15 have probably met with more cab drivers than any other Chairman that you
16 have ever had.

17 MR. BROADUS: Okay, okay.

18 CHAIRMAN SWAIN: I call everybody. MR.
19 BROADUS: You call everybody.

20 CHAIRMAN SWAIN: Yes, I've called Price. I've called
21 -- I've called everybody. I called the cab companies and try to get their
22 opinion.

23 MR. BROADUS: Okay.

24 CHAIRMAN SWAIN: I've even asked the other
25 Commissioners to send me your thoughts, give me your e-mails, tell me
26 what you think.

27 Now, I'll be right up front. I didn't do this. It was given
28 to me.

29 MR. BROADUS: But you okayed it.

30 CHAIRMAN SWAIN: It was given to me. I was given
31 a job --

32 MR. BROADUS: It was given to you?

33 CHAIRMAN SWAIN: Sir, I was given a job to do by the
34 Mayor of the District of Columbia.

35 MR. BROADUS: Okay.

36 CHAIRMAN SWAIN: Now, let's be right up front. I
37 don't see anybody here going down there to the City Council, saying that
38 what I have done is illegal. If I had done something illegal, don't you think
39 that the City Council would have stepped into it by now?

40 MR. BROADUS: Well, I'll tell you something, sir, this is
41 the last thing I'm going to tell you. I was on the price fixing of automobiles,
42 which is against the Sherman Act.

43 CHAIRMAN SWAIN: Yes, sir.

44 MR. BROADUS: About 20 years ago, I stayed there on a

1 whole year. They fined every car dealer, except Capital Cadillac, for price
2 fixing. Price fixing, that's against the Sherman Act. It's a Federal thing.

3 That means that these people are part of your
4 organization and you have no right to say, "Well, you can do certain things,"
5 you go to the Mayor and he does what you say, without any input from
6 these people and the people who are involved in it, who are about 8,000 cab
7 drivers.

8 We don't have any input, except this fellow or maybe
9 him and the lady. But most of the people here, they are for other
10 organizations.

11 CHAIRMAN SWAIN: Mr. Broadus, I hear you and --

12 MR. BROADUS: No, but I'm saying, you should be
13 neutral. My opinion.

14 CHAIRMAN SWAIN: Yes, sir.

15 MR. BROADUS: And I tell you something, if somebody,
16 which I think is doing it now, is going to take not only you to Court,
17 because you're here now, also, Causton Toney, also Carl Schwartz, also
18 Mayor Williams, they're taking them to Court for just that idea, it's against
19 the Sherman Act, which is a Federal offense.

20 CHAIRMAN SWAIN: Mr. Broadus, thank you for your
21 comments. Okay, yes. Yes, I realize that it's 12 o'clock. I'm going to spend
22 the next three minutes on this and then we're going to move ahead with the
23 rest of the agenda. Ms. Travis, you said something?

24 COMMISSIONER TRAVIS: No, I said that gentleman
25 had his hand up.

26 CHAIRMAN SWAIN: Yes, I was getting ready to call
27 on him. Yes, sir?

28 MR. GRAY: I got something I'm going to have to say.
29 My name is Vincent Gray. I drive Royal Cab 588.

30 CHAIRMAN SWAIN: Yes, sir.

31 MR. GRAY: I got a question. You know, us drivers, we
32 got out a survey, right, about the meters at Three Park --

33 CHAIRMAN SWAIN: Yes, sir. Mr. Wright gave me a
34 copy yesterday.

35 MR. GRAY: Okay, did he -- Mr. Wright, did you give
36 him the numbers?

37 MR. WRIGHT: Yes.

38 CHAIRMAN SWAIN: Yes, he gave me them.

39 MR. GRAY: Okay, that's all I wanted to ask.

40 CHAIRMAN SWAIN: Yes, sir, he gave it to me it's part
41 of it.

42 MR. GRAY: And that's the end of it, because we've got a
43 lot of them in the senior citizen building in the churches. You haven't got
44 them yet, have you, Mr. Wright?

1 MR. WRIGHT: He has everything I gave him.

2 MR. GRAY: Okay, just a question.

3 CHAIRMAN SWAIN: Thank you. Mr. Ahmed, and
4 then we're going to move on.

5 MR. AHMED: Mr. Chairman, I just would like to follow
6 Mr. Wright, what he said, and I appreciate that, because you know, the
7 Commission, what they believe, if it's not part of practical in the writing or
8 calling or there is now follow up, it's really is basically, they come in here,
9 they give us the lip service here. That's why -- I don't know, in person, Mr.
10 Baker, but I attend a lot of meetings, which I listen very carefully to what
11 he's saying.

12 Mr. Pawha, he don't even talk. All he says is 'yes' or 'no',
13 okay, and to be honest with you, Mr. Heinemann, last two meetings, he was
14 not even here and he's a Commissioner.

15 So, I'm not talking really -- you know, this body in front
16 of me. I'm talking about my colleague drivers, we need to focus and put out
17 agenda together, you see.

18 So, what we need now is -- Mr. Chairman, a question, the
19 fines, is there any way as we taxi drivers -- as you say, it's going to be
20 reviewed, right? It's not the last decision?

21 CHAIRMAN SWAIN: We're just in the comment
22 period. I have to look at what the comments are.

23 MR. AHMED: So, why we don't focus and talk to a
24 Chairman, whoever in charge and say, "Look, this \$1,000, \$10,000, \$2,000,
25 it's really outrageous." Is there any way you can do something? We need
26 something to focus and be done, otherwise, I think it's just -- we're wasting
27 our time because Chairman is appointed for Mayor.

28 Chairman cannot say, "We don't want to meet."
29 Chairman is not going to have a job, because -- no, no, hold on. Chairman
30 is employee, so my point is, let's focus and have agenda, and to be honest
31 with you, you know more than me. I'm a foreigner. I came here 20 years
32 ago, but it's too late now. I'm a citizen. So, let's move on.

33 CHAIRMAN SWAIN: Okay, there is one thing I'm
34 going to say, and then I'm going to go ahead and move on to that.

35 I know a lot of people are talking about the amount of the
36 fines, the fines of this, the fines of that. All the people who ought to be
37 worried about the fines are somebody who is planning on doing something
38 illegal.

39 If you're not planning on tampering with your meter, why
40 you worried about \$1,000 fine? If you're not planning on taking it out and
41 doing something illegal with it, why you're worrying about what the fines
42 are? I don't worry about what the cost is of running a red light, because I
43 don't run red lights.

44 But if you're really worried about the fines, then you need

1 to look at yourself and ask, "Why am I worried about it? Do I plan on doing
2 something illegal?" Now, that was the last word.

3 Okay, now one item that was not on the agenda -- well,
4 let's see, the calendar, we put out the -- I'm sorry, I need new glasses. The
5 task force.

6 The task force, okay, what it is is that Ms. Robinson is
7 part of the task force. There is a list of all the task force members that
8 should have been on the table over there. If not, I'll make sure that we get
9 you copies of the task force.

10 But the task force that Jim Graham has put together the --
11 the first meeting is scheduled for the 31st of January. You should be getting
12 something in the mail today when you get home, Ms. Robinson, and so far
13 as how we're going to go ahead and proceed, give us a break down of what
14 we plan on doing. So, that should be going out and like I said, if anybody
15 wants a copy of the task force membership, I'll make sure that it's out there.
16 You can also get it from David Vacca, but I do have the latest copy of the
17 task force.

18 MR. BETHEA: Can you give us the names of those
19 individuals, other than this lady here, that's on the task force?

20 CHAIRMAN SWAIN: Mr. Bethea, if I had them all on
21 the top of my head, I would. I don't have the list in front of me. That's why
22 I said, I will make sure before you leave here this evening, you will have a
23 copy. I know it's out there on the desk, but I cannot give you the names of
24 all 14 people that's on the task force.

25 I can tell you that Reggie Tymus is from City Cab -- I
26 mean, from City Limousine is there. I can tell you that Lynne Breaux from
27 the Restaurant Association is on there. I can tell you that -- let's see, that --

28 MR. BETHEA: I said you can't name none of them, you
29 don't know none of them.

30 CHAIRMAN SWAIN: Okay, fine. I got no problem
31 with that, sir. Then go and get the list.

32 Okay, the calendar for the year was also distributed. If
33 you did not get a copy, we'll make sure that there are additional copies. I
34 believe all the Commissioners had a copy of it in there. Mr. Tapscott?

35 COMMISSIONER TAPSCOTT: Yes, is the task force
36 meetings going to be public or where are they going to be held or are they
37 going to be public?

38 CHAIRMAN SWAIN: Yes, sir.

39 COMMISSIONER TAPSCOTT: Are we going to have
40 any input into it or whatever?

41 CHAIRMAN SWAIN: As far as I'm concerned, the task
42 force meetings are public meetings. We'll make sure that the list gets public
43 on where the meeting is going to be at.

44 COMMISSIONER TAPSCOTT: Well, who is the head

1 of the task force?

2 CHAIRMAN SWAIN: Jim Graham, by legislation, put
3 together the task force and he and I should co-Chair the task force.

4 COMMISSIONER TAPSCOTT: And it's going to be
5 held here or downtown?

6 CHAIRMAN SWAIN: It's going to be held in various
7 locations. I do know that we do plan on having one meeting here. They
8 had scheduled a meeting here. They wanted to do a meeting here and at
9 6:30 -- most of the meetings are going on in the afternoon hours.

10 COMMISSIONER TAPSCOTT: How many cab drivers
11 or limousine drivers are on the task force, do you know?

12 CHAIRMAN SWAIN: Only one that I know off-hand, I
13 know Mr. Champ is on there. I know that Reggie Famous or Fimous is on
14 there, from City Limousine, yes, Reggie is on there. So, I will make sure
15 that you get the list. I do know that Ms. Rovoy has the list.

16 (OTR comments)

17 COMMISSIONER TAPSCOTT: Well, what is actually
18 their purpose? Do you know that? What are they really looking at?

19 CHAIRMAN SWAIN: They're looking at the entire
20 industry. They're looking at Title 31. They're looking at everything that has
21 do to with this industry and Jim Graham has been talking about it for -- I
22 guess, almost a year now.

23 COMMISSIONER TAPSCOTT: Well, you know, I see
24 in the minutes, different places, referred to as the task force, that were
25 shoved down our throats, more or less, from Causton Toney, and we used
26 that in a lot of instances in our reports, and I happen to have been a member
27 of that and I hope that the task force that's being put together, is not a
28 kangaroo court, like that one that was held before.

29 CHAIRMAN SWAIN: Mr. Tapscott, I have no idea of
30 Mr. Causton Toney's involvement or anything like that. Ms. Allen?

31 COMMISSIONER ALLEN: Mr. Chairman, can you give
32 us a copy of what the task force purpose and objection are, in writing, why
33 are they there? What are they doing, other than -- you said they were
34 studying the whole industry. Studying it how? Studying what about it?

35 I mean, what --

36 CHAIRMAN SWAIN: Ms. Allen, I said --

37 COMMISSIONER ALLEN: I'm just curious, because we
38 have no say, as Commissioners. What gives the task force the right to have
39 any say, and so, why are they -- why did Mr. Graham -- and since you're the
40 co-Chair, you have to get this, why did you all decide that that was
41 something that was needed?

42 CHAIRMAN SWAIN: Ms. Allen, this has been in the
43 making, prior to me coming here.

44 COMMISSIONER ALLEN: I understand how long it's

1 been in the making.

2 CHAIRMAN SWAIN: Hold on. Now, my thing is that I
3 don't remember reading anything where any of the Commissioners have
4 asked Mr. Graham -- and I know a lot of you have been before Mr. Graham
5 and Mr. Graham -- I'll get there in one second, and Mr. Graham has brought
6 it up, and I don't remember anybody asking him anything.

7 COMMISSIONER ALLEN: Purpose, that's all I want to
8 know, what is the purpose of the task force? Is it one, to abolish the
9 Commission? Is it two, to make sure that the taxi industry -- the
10 transportation industry -- because we keep saying taxi. We stopped talking
11 about limousines, ambulances and all of the other things that come under
12 the purview of this Commission, to take it over and put it back in
13 Government, where it came out of.

14 Since we're suppose to be "independent", I just need to
15 know a purpose. I can't -- I should say, I don't know, because I have not --
16 and I will say, have not researched, that's why I'm asking you, as the
17 Chairman, to get me the purpose and the objection.

18 CHAIRMAN SWAIN: I will get you everything that I
19 can get my hands on and get it delivered to your home.

20 COMMISSIONER ALLEN: Thank you.

21 CHAIRMAN SWAIN: Thank you. Mr. Baker?

22 COMMISSIONER BAKER: I mean, just to follow up on
23 Ms. Allen and your response to her, I think that this goes to some of what --
24 the exchange between myself and Mr. Wright.

25 I personally believe in being a good member and a good
26 team player. It doesn't mean that I'm going to not disagree, that I'm not
27 going to vote my own way and what I see as the way to go.

28 But what I believe is that, our first responsibility, as a
29 member of this body, when we have questions or when we come to
30 meetings, is to ask you, because you're our Chairman. I'm not one of those
31 persons who runs around going to the Mayor, going to Jim Graham, having
32 all these side conversations. I just don't believe in that type of process.

33 And so, I think that when we ask questions of you like
34 this, I mean, if you want -- I mean, to tell us, "Well, I don't recall anybody
35 asking Jim Graham," if you tell us to go to Jim Graham, we will. In my
36 view, that impacts on the harmony of this body, and it also begins to create
37 a political side show, where everybody goes elsewhere to move their
38 agendas, and I'd rather not do that.

39 CHAIRMAN SWAIN: Yes, sir.

40 COMMISSIONER BAKER: We can do that, but -- and
41 we're very good at it, that's what I get paid for. But I don't want to do that.
42 I'd rather make decisions here.

43 CHAIRMAN SWAIN: Okay, Mr. Baker, one thing I was
44 saying is that, it seems to me that everybody acts as though this task force

1 just snuck up on them, that nobody had any advance notice of the task force.
2 Yes, that nobody had any advance notice of the task force and all of the
3 sudden, you see the word task force and then all the sudden, you sit up there
4 and act like it was something that was just thrown out. It wasn't.

5 This was coming about long before I came here and the
6 only thing I'm saying is that -- and you know, I don't think that it's going
7 behind somebody's back. If you have a question, ask it. I've got no problem
8 with that. If you need some more clarification from Mr. Graham and all of
9 that, ask it.

10 I saw the list several times. The list changed several
11 times. I know that some people were put on and some people were thrown
12 on, but the thing about it is, I will make the list available to you and I will
13 give you as much information as I can possible give you, concerning what
14 the task force is all about.

15 This, like meters, is something that I inherited. It is not
16 like I sat up here and all the sudden, behind your back, and said, "We're
17 going to have a task force." It's been out there for over a year. It's coming
18 to fruition and it's something that I inherited and I will give you all of the
19 information that's been given to me. Mr. Bethea?

20 MR. BETHEA: I noticed that on the agenda that was
21 posted on the D.C. Taxicab Commission website, that you had a line item
22 that -- number two, serving persons with disabilities, community with D.C.
23 based taxi services.

24 Your own task force, put this three, according to the
25 format on that agenda. Is this issue going to be discussed?

26 CHAIRMAN SWAIN: It's going to be -- I'm going to tell
27 you what I'm going to do with it. I have no problem with that. Ms.
28 Robinson?

29 MS. ROBINSON: Yes, Carolyn Robinson, Yellow Cab
30 800. In response to the task force, the task force came about from a budget
31 hearing that Jim Graham as an oversight hearing and he discussed that he
32 wanted to have. This was his mission.

33 But I'm also here to report, even though that I have been
34 assigned to the task force and have requested information pertaining to the
35 task force, I have not received it as of yet. I e-mail David Vacca often,
36 almost weekly.

37 The reason the task force was taking so long to really get
38 on its feet was because some of the members, they took off -- somebody
39 couldn't perform, due to illness in their family or something, because
40 originally, we were suppose to meet in December, but it was postponed
41 because they couldn't get the total body coordinated at the same time.

42 Part of the problem -- I don't know how they were doing
43 it, but it was a coordination between the Commissioner and David Vacca
44 and Jim Graham's office.

1 CHAIRMAN SWAIN: Mr. Tapscott?

2 COMMISSIONER TAPSCOTT: This is not a question.
3 This is a statement and I know you can't answer. You just got there. But
4 I've been around D.C. a few years. There is Commissions -- a book about
5 that particular, different Commissions, their duties and everything and there
6 is no Commission or Board, you can name them all the way down, that has
7 the trade, I guess you would call it, of overseeing.

8 The body of taxicab is the most over-regulated industry
9 that I've ever seen in my life. It just -- we just had a Commission four years
10 or five years ago. We're right back at it. Why does this task force -- or this
11 Commission have so much strict regulations that's to be done? It is really
12 over-regulated. Why? I would love to know.

13 CHAIRMAN SWAIN: Okay, Mr. Ahmed, and then
14 we're going to move on.

15 MR. AHMED: Mr. Chairman, I need to ask, because I
16 have -- I'm going back -- I'm a Chairman of D.C. Taxicab Driver's
17 Association and my followers, if I go back, they need some --

18 COMMISSIONER ALLEN: We can't hear you.

19 CHAIRMAN SWAIN: You have to move to the table.

20 MR. AHMED: What I'm saying is, the reason I'm here is,
21 when I go back, they asking me, what do you ask -- the Chairman, and the
22 Commission, what is your answer?

23 Number one, is there any way -- when is the budget -- do
24 you know anything about the city, Chairman, when do we have a budget or
25 hearing, passing for the D.C. Taxicab?

26 CHAIRMAN SWAIN: For the D.C. Taxicab
27 Commission there is a hearing -- well, not a hearing. I have a budget
28 meeting on the 29th of this month.

29 MR. AHMED: Because what you told us last time is, you
30 have a lack of manpower and less budget and -- let's focus the drivers -- if
31 we can have a -- more inspectors. Is there any way, Mr. Chairman -- we
32 have a problem, all the Driver's Organization, I represent. The complaint I
33 have is, most of them is they have been really unfair to them. They've taken
34 money from their pocket, and every day, the only discussion we have every
35 day is this, illegal drivers, PG, unmarked cars and limousines are taking
36 over the city.

37 So, all we ask is -- I know that you have a -- you don't
38 have a -- too many inspectors, but if you are really into look these issues,
39 please, if you can ask even help to the police for back up -- they used to
40 have really -- the police, they use to have the D.C. Taxicab.

41 Right now, and I think maybe we have a new police
42 officer, some of them, they don't even know the rules, and when you tell
43 them, they can't even distinguish between P.G. and Virginia and D.C. So,
44 please, Mr. Chairman, put in this -- your agenda in the future.

1 CHAIRMAN SWAIN: All right.

2 MR. AHMED: At least we can get some answers.

3 CHAIRMAN SWAIN: Okay, thank you. All right, Mr.
4 Bethea brought up the fact that I did mention that I was going to talk to --
5 discuss something having to do with handicapped taxicab companies in the
6 Washington, D.C. area.

7 A letter is going out to the different companies, asking
8 whether or not they were interested in participating in the program to start,
9 bringing handicapped taxicabs into the District of Columbia. That letter
10 should go out Friday.

11 I've contacted some of the companies. I plan on
12 contacting the rest of them personally and then follow up by a letter. I want
13 to have a meeting with the owners to talk about which ones are interested in
14 participating, so we can go ahead and get some handicapped taxicab service
15 in the District of Columbia.

16 MR. BETHEA: Mr. Swain, I've spent the past five years
17 --

18 CHAIRMAN SWAIN: You have to come to the table.

19 MR. BETHEA: Ronald Bethea, Independent 252. I'm
20 also President of the Van Service Plus. We're non-profit group and we
21 advocate on behalf of cab drivers and limousine drivers, cab companies and
22 limousine drivers and the disabled community.

23 I've worked very closely with the Small Business
24 Development Center at the University of the District of Columbia for
25 SBCD, which we were able to put together a financing program called the
26 'Taxicab Limousine Upward Mobility Program'.

27 I've been in front of this body numerous times, talking
28 about key issues, which has basically handicapped, not only the cab drivers,
29 but the cab company owners from being able to qualify for Federal grant
30 money, which was available through the Department of Transportation.

31 Three-hundred-thirty-six-million dollars is being funded
32 from '06 through '09. The problem being only one company out of 108 cab
33 companies, which I called over four months -- we got 13 owners and only
34 26 companies that were interested in participating, but only one company
35 put up a letter of intent to put up their 20 percent match for the 80 percent
36 grant.

37 That is what my question and what my concern is, the
38 companies themselves are caught in the same catch-22. They have nothing
39 of value to take to the bank, to use as collateral, to purchase these new
40 vehicles and I'm -- my reason for being here today was this.

41 Since the Commission -- since you're sending a letter out
42 from this Commission -- and I've spoken with Mr. Jim Graham's office over
43 this issue, allegedly, they've got about \$200,000, the last numbers that I got
44 from Mr. Vacca, saying what they had available.

1 Originally, they said it was a low interest loan. I called
2 him back, he said it was a grant. I don't know which it is, whether it's a
3 grant or a loan, but I do know, based on cab drivers having to do stated
4 income two years tax returns and the companies having to go through the
5 same process, as it relates to the program through the Small Business
6 Development of UDC, the could not qualify.

7 So, I guess I'm somewhat puzzled, as to how this
8 Commission is going to see how many companies want to participate,
9 because we know that it was not the company owners who did not want to
10 participate. The companies wanted to put these vehicles on the street. They
11 simply had no way to come up with the financing for these vehicles and that
12 is where my concerns are because this body, in June, when I put forth a
13 petition for a motion, for consideration, to cap this industry, grandfather in
14 all 6,500 taxi cabs, make those DCTC's transferable and for the D.C.
15 Council to make those DCTC's worth \$200,000, so each cab driver who
16 owns a cab would be worth \$200,000 at the bank.

17 Now, I've also taken that proposal motion to Councilman
18 Barry, a legislative staff person, Jim Graham and Kwame Brown. I'm still
19 waiting to get a response from them on meetings to deal with this issue,
20 because the bottom line is whether it be a wheelchair assessable issue,
21 whether it be a high-bread issue, whether it's meter, whatever, how are the
22 companies and the drivers expected to pay for these vehicles? Thank you
23 very much, sir.

24 CHAIRMAN SWAIN: You're welcome. Okay.

25 COMMISSIONER TAPSCOTT: Mr. Chairman?

26 CHAIRMAN SWAIN: Yes.

27 COMMISSIONER TAPSCOTT: On agenda number
28 five, Department of Transportation requests for action taxicab --

29 CHAIRMAN SWAIN: Yes, sir.

30 COMMISSIONER TAPSCOTT: Am I going -- have we
31 passed over that or you wasn't going to bring it up?

32 CHAIRMAN SWAIN: We'll get to it.

33 COMMISSIONER TAPSCOTT: Okay, thank you.

34 CHAIRMAN SWAIN: The calendar had been
35 distributed.

36 MS. ROBINSON: I just have a comment or a question. I
37 notice you have a the COG meetings. The address is incorrect, and I want to
38 know if you're going to have the task force meeting on the last of the month,
39 wouldn't that interfere with the COG meeting?

40 CHAIRMAN SWAIN: No, because the task force
41 meeting is late in the afternoon.

42 MS. ROBINSON: Late, like what?

43 CHAIRMAN SWAIN: Four-thirty to six-thirty.

44 MS. ROBINSON: Okay.

1 CHAIRMAN SWAIN: Yes, and I will get the addressed
2 corrected for the COG, no problem. Okay, Department of Transportation
3 requests for action on taxicab stands. All right, pre-license. Okay, what's
4 happening is that the test isn't being reviewed. What had happened is that
5 what the -- with meters coming in, it would go to meters. Half of the
6 questions on the test mean absolutely nothing, because they're all meters
7 that talk about the calculations and if you don't have to do calculations, then
8 you don't need the questions on the test.

9 So, what they're going to -- what we're looking at is the
10 possibility of doing a lot more geographical questions, locations and stuff
11 like that. So, that's under review now.

12 MR. BETHEA: So, but they're giving the class at UDC
13 and I took the class last summer.

14 CHAIRMAN SWAIN: Yes, sir, UDC is still giving the
15 class and that is -- UDC is purview to give the class.

16 MR. BETHEA: So, this is not in conjunction with the
17 class given at UDC, even though you have to have a UDC class in order to
18 take the test?

19 CHAIRMAN SWAIN: You still have to go to UDC, yes,
20 sir.

21 MR. BETHEA: So, this is not in conjunction with UDC.
22 That's what you're talking to.

23 CHAIRMAN SWAIN: No, we're re-writing that UDC
24 will be administering.

25 MR. BETHEA: So, they've been re-writing the test for
26 seven, eight, nine months then?

27 CHAIRMAN SWAIN: Yes.

28 MR. BETHEA: So, when do they plan on giving the test?

29 CHAIRMAN SWAIN: As soon as we get all the
30 questions done.

31 COMMISSIONER TAPSCOTT: Mr. Chairman?

32 CHAIRMAN SWAIN: Mr. Tapscott, go ahead, sir.

33 COMMISSIONER TAPSCOTT: Is there or has the rule
34 been changed, as far as UDC testing? In 349 or 350, it says that there's
35 suppose to be a Commission set up from this organization, to -- as a
36 Committee, to look at the testing in the schools.

37 Is that still going to be in effect or how is it to be done?
38 I've been here for eight years. We've had a taxi cab -- I mean, a School
39 Commission, a school thing -

40 MS. ROBINSON: And there's no educational committee
41 meetings on this list.

42 COMMISSIONER TAPSCOTT: Yes, that's what I -- it's
43 been an Education Committee and I think type 31 relates to it and -- general
44 orders from --

1 CHAIRMAN SWAIN: Mr. Tapscott, I hear what you're
2 saying, but right now, until we find out which direction we're going to go on
3 with meetings or whatever, we're going to go to meetings or not, it doesn't
4 make any sense to sit up there and try to come up with new questions until
5 we actually find out what we're going to be using.

6 COMMISSIONER TAPSCOTT: No, no, no, that's not
7 my question. Are we going to have a Committee on --

8 CHAIRMAN SWAIN: The Educational Committee is
9 still there.

10 COMMISSIONER TAPSCOTT: Who is that?

11 CHAIRMAN SWAIN: You're on there.

12 MS. ROBINSON: But it's not on here, that's what he's
13 saying. There are no meeting --

14 CHAIRMAN SWAIN: That's right, and it's not going on
15 there until we figure out which way we're going to go with the questions.

16 COMMISSIONER TAPSCOTT: But don't Title 31 and
17 --

18 CHAIRMAN SWAIN: Mr. Tapscott, that's where we're
19 at right now.

20 COMMISSIONER TAPSCOTT: All right, fine. Don't
21 Title 31 and the D.C. Code set the agenda, how many people is on there,
22 who is suppose to be on there?

23 CHAIRMAN SWAIN: Mr. Tapscott, yes, it does.

24 COMMISSIONER TAPSCOTT: It does. Are were
25 going to follow the rule, that's all I'm asking?

26 MS. THOMPSON: Excuse me, I'll take a look at the
27 rules, but my recollection, there is no provision or requirement in Title --
28 I'm sorry, in the D.C. Code, as to an Educational Committee.

29 I think there is one reference in Title 31, but it's not set
30 out similar to the panel's. D.C. Code, in terms of the structure of the
31 Commission, just talks about the Commission's panels.

32 MS. ROBINSON: I disagree.

33 MS. THOMPSON: No, there is no such reference in the
34 D.C. Code to Educational Committee.

35 COMMISSIONER TAPSCOTT: All I'd like to say is, it
36 has been an Educational Committee, I know for eight years and past there.
37 It's always been an Educational Committee and I looked it up myself. A
38 police officer is suppose to be on there and it names who is suppose to be
39 on that Committee.

40 MS. THOMPSON: The reference that you're -- the
41 Committee, there is an advisory group to UDC. At some point, the
42 Commission also had an Education Committee. They are actually two
43 different bodies.

44 There is an advisory group to UDC. UDC, in legislation,

1 is charged with training taxi drivers and there is a provision in there that
2 there is essentially, an Advisory Board, actually, that's what it says, an
3 Advisory Board to the University that looks at the University curriculum.
4 There is that reference.

5 But in terms of this Education Committee that apparently
6 was formed to address our pre-licensing exam, that's not in the D.C. Code.
7 But apparently, there has been a Committee that's been operating over the
8 years, focused on that topic. So, it's two different organizations.

9 CHAIRMAN SWAIN: I don't know which one of you
10 were first. I'll go with Mr. Wright.

11 MR. WRIGHT: Mr. Chairman, I just want to pass this, of
12 all these members on the Committee, has anyone thought about the
13 unfairness of these gentlemen going up to UDC, ladies or whoever,
14 involved in paying almost \$400 for --

15 COMMISSIONER TAPSCOTT: No, it's \$500.

16 MR. WRIGHT: Five-hundred dollars and knowing that
17 they can't go ahead. Has anyone thought about going to the Mayor and
18 saying, "We are looking at something is so unfair, Mr. Mayor would you
19 stop this," or do something? Has anyone thought about that?

20 COMMISSIONER TRAVIS: Well, what we did, we
21 asked the UDC -- we talked with staff at UDC, to put those classes on hold
22 because of the problems that we were having, but UDC has continued to
23 give their --

24 MR. WRIGHT: I said has anyone gone to the Mayor or
25 the City Council? That's illegal with that. If they take you all to Court,
26 you've got to give all the money back. You all better pray that nobody don't
27 take you to Court, because it will make you look ridiculous.

28 COMMISSIONER TRAVIS: And then UDC gets it, we
29 don't get it.

30 CHAIRMAN SWAIN: But UDC has the money.

31 MR. WRIGHT: I understand that, but UDC -- this is all
32 part of the same package.

33 CHAIRMAN SWAIN: No, it's not.

34 MR. WRIGHT: You're saying that I can't get a license
35 until I go to UDC?

36 CHAIRMAN SWAIN: No, I didn't say that.

37 MR. WRIGHT: But that's a fact though, isn't that right?

38 CHAIRMAN SWAIN: Yes, it is a fact.

39 MR. WRIGHT: And I can't get --

40 CHAIRMAN SWAIN: When you say the whole
41 package, I'm talking about money-wise. We're not in control of that money.

42 MR. WRIGHT: I didn't say you did.

43 CHAIRMAN SWAIN: Now, I will tell you that they did
44 talk to UDC. Prior to me coming here, I understand that people did contact

1 UDC and asked UDC to stop giving the test.

2 MR. WRIGHT: Have you gone to the Mayor or the City
3 Council? Somebody has control over this situation.

4 MS. THOMPSON: It's the City Council?

5 MR. WRIGHT: City Council?

6 MS. THOMPSON: Yes, it's actually legislation that lays
7 out how you become a taxi driver.

8 MR. WRIGHT: Okay, I understand.

9 MS. THOMPSON: And one of the first things says is,
10 you have to take the test at UDC.

11 MR. WRIGHT: Now, in light of this Commission here,
12 not giving the test, and you're taking people's money, has anybody here
13 gone and said that UDC should hold this up, until such a time when you are
14 able to operate a vehicle?

15 MS. THOMPSON: I actually recall being at a hearing
16 before Mr. Graham, where someone -- a number of our people raised that
17 issue to the Council. I mean, that, in essence --

18 MR. WRIGHT: But the Commission has not -- this
19 Commission has not written a letter to City Council saying, "Look, we are
20 not performing a part of this examination."

21 MS. THOMPSON: Mr. Wright, that wouldn't actually be
22 the process we would use. In other words --

23 MR. WRIGHT: Then would you mind telling me what
24 process you would use?

25 MS. THOMPSON: Yes, if the Commission decides to
26 attempt to change the legislation --

27 MR. WRIGHT: I'm just talking postponing it
28 temporarily, that's all. I'm not talking about stopping doing it. You
29 understand what I'm saying?

30 MS. THOMPSON: Yes, in other words --

31 MR. WRIGHT: You can't come over here --

32 MS. THOMPSON: You're saying a letter to --

33 MR. WRIGHT: Stop until we're able to function those --

34 MS. THOMPSON: Yes, well, I think that's the
35 Commission's decision.

36 MR. WRIGHT: You think that would be proper for this
37 Commission to call that to someone's attention?

38 MS. THOMPSON: Yes, sure.

39 MR. WRIGHT: Mr. Chairman, would you take that into
40 consideration, please?

41 CHAIRMAN SWAIN: Yes, Mr. Wright, I will.

42 MR. WRIGHT: She says it's in your court.

43 CHAIRMAN SWAIN: No, she said it's in the
44 Commission's court.

1 MR. WRIGHT: Well, you're the Chairman.

2 CHAIRMAN SWAIN: Yes.

3 MR. WRIGHT: So, that makes you part of that.

4 CHAIRMAN SWAIN: Yes, but I just wanted to make
5 sure you got it on the record. You spent half of the time telling me what's
6 mine. Yes, sir, Mr. Tapscott?

7 COMMISSIONER TAPSCOTT: Mr. Chairman --

8 MS. THOMPSON: It's in his purview.

9 COMMISSIONER TAPSCOTT: We commissioned,
10 about five -- four or five years ago -- the Commission --

11 CHAIRMAN SWAIN: Sorry, Mr. Tapscott, go ahead.

12 COMMISSIONER TAPSCOTT: The Commission wrote
13 a letter to Carol Schwartz, asking for their school to be shut down. We, the
14 Commissioners, did that when Carol Schwartz was in charge of the
15 Committee.

16 We closed the school down, not the Chairman, nobody,
17 this body closed the school down because it was so much illegal things
18 going on up there. We proved that most of them had the exam in their
19 hands on their shirt sleeves, in their cell phone taking pictures. That's the
20 reason why it was closed down.

21 Now, if we're going to open it back up with the same
22 things that they were doing, changing the questions is not going to help any
23 of the --

24 MR. WRIGHT: I'm talking about UDC, taking money
25 from those people over there and they can just --

26 COMMISSIONER TAPSCOTT: Wait, Mr. Wright, I
27 don't know what you said. I'm saying, if we -- UDC is absolutely -- when
28 we closed it down, UDC should have closed it down or given the task.

29 CHAIRMAN SWAIN: Mr. Tapscott, I will go ahead and
30 I will put together a letter and I will send it to all the Commissioners in so
31 far as asking UDC to postpone giving the classes or to suspend giving the
32 classes, until the test goes back up, okay?

33 COMMISSIONER TAPSCOTT: All right.

34 CHAIRMAN SWAIN: You ask for and we'll do it, okay?
35 Yes, sir?

36 MR. BETHEA: I heard what you just said about that, but
37 what about the 2,000 people or 1,000 people that have already taken it? To
38 have that money invested in to this and sit back waiting --

39 CHAIRMAN SWAIN: Even though we're going to ask
40 them to go ahead and suspend the test, we're still going to work out a
41 process where those people can take the test and get their license, and UDC
42 will be required to give a refresher course.

43 MS. ROBINSON: You're going to over access them,
44 that's what you're saying?

1 CHAIRMAN SWAIN: That's not what I said.

2 COMMISSIONER TAPSCOTT: On that same question,
3 Mr. Chairman, I'll guarantee the most of them -- off the top of my head, that
4 most of the applications that they have already passed, 2,000 or whatever it
5 is, at least two-thirds of them are out of state residents.

6 The law is, no new cabs can be issued to out of state
7 residents, right?

8 CHAIRMAN SWAIN: Yes.

9 COMMISSIONER TAPSCOTT: All right, so, we pass
10 and -- they pass it. They can't get a cab. The only thing that they can do is
11 come in here and rent a cab. They can't come in here and buy a cab and
12 open it up if you live in Virginia or Maryland.

13 CHAIRMAN SWAIN: Well, we will -- first of all, let's
14 get the class stopped. All right, one of the things that's not on the agenda --
15 and I will go ahead and put together a letter and make sure that you get it
16 and we'll go from there, requesting that they suspend the test -- I'm sorry,
17 suspend the class.

18 Now, one of the things is not on the agenda and it has to
19 do with the permanent rate increase. The last time one was in January
20 2006. We're required to review the industry cost every two years, so this
21 issue will be sent to the panel on rates and rules, which will meet next
22 month.

23 So, we can go ahead and start discussing a rate increase.

24 COMMISSIONER BAKER: Mr. Chairman?

25 CHAIRMAN SWAIN: Yes, sir.

26 COMMISSIONER BAKER: Why wouldn't the
27 discussion around rates be included in the new proposed regulations? Why
28 don't we create a separate box?

29 CHAIRMAN SWAIN: Well, because we're required to
30 go ahead and do that by law, every two years.

31 COMMISSIONER BAKER: And when are we
32 anticipating that we will be complete with it?

33 CHAIRMAN SWAIN: I'm going to send it to the panel
34 on rates and rules for the next meeting in February. How quickly it's
35 completed, depends on the panel.

36 COMMISSIONER BAKER: And then I guess I have a
37 question. So, let's say the panel, even under the best scenario, which I
38 doubt, completed its process in March -- I mean, in February.

39 We're meeting in March. Are you suggesting that we
40 would potentially vote a rate increase at our March 12th meeting and then on
41 April 1st, new meter regulations, which have a drop rate for them, are going
42 to go into effect?

43 CHAIRMAN SWAIN: New meter regulations are still
44 under review and I'm asking you to go ahead, do the rate increase, or at least

1 look at the rate increase. By that time, you should also have the information
2 on the rate schedule for the meters and all of that and perhaps, we can work
3 those two out together.

4 But at least we're required by law to go ahead and take a
5 look at it. We need to go ahead and take a look at it.

6 Now, I have drivers tell me that they're well overdue for a
7 rate increase and we need to at least go ahead and take a look at it.

8 MR. LUCAS: My name is William Lucas, Driver Yellow
9 501. It's not on --

10 CHAIRMAN SWAIN: Microphone, sir.

11 MR. LUCAS: William Lucas, Driver Yellow 501. It's
12 not on the agenda, but I do believe the gas surcharge, when is that up?

13 MR. LUCAS: Okay, have we thought about what we're
14 going to do, because gas is going back up?

15 CHAIRMAN SWAIN: Gas goes up and goes down
16 every day, Mr. Lucas.

17 MR. LUCAS: True, but -- well, since there's rate charges,
18 so close together, about what we're going to do with the meter and so forth,
19 I think it would be beneficial to extend the gas surcharge.

20 CHAIRMAN SWAIN: Thank you for your comment.

21 MR. BEYAH: I don't want to sound redundant, but my
22 question also is as Mr. Lucas asked. My name is Mr. Beyah. I drive
23 Washingtonian Taxicab #19. My question is the same as Mr. Lucas.

24 You just indicated that gas prices go up and go down.
25 They do fluctuate. But they are staying at a pretty steady rate, which is
26 above \$3.00 and it impacts on our earnings and I would think it would be to
27 our benefit to extend it. What does the Commission intend to do about
28 that?

29 CHAIRMAN SWAIN: I think it would be to your benefit
30 if I extended it too, but the thing about it is, the last time we did a gas rate
31 increase, if you looked at the prices of what gasoline was and looked at the
32 number of runs in a route, the dollar was very generous.

33 Let's be right up front, I've heard a lot of comments on
34 that, that the dollar was too overly generous.

35 MR. BEYAH: The dollar?

36 CHAIRMAN SWAIN: The dollar -- surcharge was
37 overly generous. In fact, you had some of your people -- Mr. Wright was
38 one of the people that spoke against the gas surcharge.

39 MR. BEYAH: All right, well, in Montgomery County, I
40 think there is about the same thing and they run their's for about six months.

41 CHAIRMAN SWAIN: Yes, sir.

42 MR. BEYAH: So, why do we run our's less than that?

43 CHAIRMAN SWAIN: We're not, we're going to --

44 MR. BEYAH: Well, why do we do our's less than that,

1 Mr. --

2 CHAIRMAN SWAIN: The purview of the Commission

3 --

4 MS. THOMPSON: Can I share with you that we pretty
5 much had a gas surcharge going for almost most of 2007. I don't have the
6 gas history report here. Don, you don't happen to have a copy with you, do
7 you?

8 But we've had a surcharge, we did a surcharge in --

9 MR. BEYAH: Wait a minute -- that one ended about
10 three or four months ago.

11 MS. THOMPSON: Yes, probably right around, I would
12 think about September, maybe.

13 MR. BEYAH: And the prices did go down, but then back
14 up --

15 MS. THOMPSON: Yes, they --

16 MR. BEYAH: -- beyond where they were before.

17 MS. THOMPSON: Yes, at some point, with the
18 surcharges, one of the challenges -- you're better off, at some point, looking
19 at a permanent rate increase, because we keep putting those on.

20 The public complains that the gas prices fluctuate. So,
21 it's probably a better --

22 MR. BEYAH: The public complains?

23 MS. THOMPSON: Yes.

24 MR. BEYAH: About the gas prices fluctuating?

25 MS. THOMPSON: About the surcharge, and in fact, the
26 gas prices, yes.

27 MR. BEYAH: All right, I think -- the public is aware of
28 the high gas rates. They complained about the gas rates because of what
29 they have to pay for their own cars. I don't get customers that complain
30 about that, in my taxi cab.

31 I don't want to say I don't get any, but most seem to think
32 that it's necessary. So, I don't know if a survey is being taken, but I think the
33 Commission should consider extending it. Thank you.

34 CHAIRMAN SWAIN: Thank you, sir. Ms. Allen?

35 COMMISSIONER ALLEN: In response to the
36 gentleman's question about the surcharge, I'm looking at November 14th
37 meeting minutes and Ms. Thompson said that she was responding to
38 something that I had said and I had said that since the price of gas
39 fluctuated, the Commission needs to add some language that if the price
40 falls below certain point, the surcharge can be removed and that the
41 Commission could craft language to add -- to address this.

42 In response, the General Counsel said that the language is
43 fine, however, the way that this would -- in a way, this would be
44 challenging. She added that the figures which the Commission staff

1 collected are prices from each Monday and that they are in constant
2 fluctuation.

3 The Commission would have to decide what figure
4 would trigger removal of the surcharge. She also shared with the
5 Commission that as to the amount of the surcharge, the Commission has to
6 determine a reasonable basis for why it has selected the amount of the
7 surcharge, looking at gas price history reported by the Commission.

8 Now, these were things that we talked about back in
9 November and the General Counsel was suppose to look into the method of
10 which we could do this, with -- if it had got a certain rate, then we would --
11 it would automatically --

12 CHAIRMAN SWAIN: Ms. Robinson --

13 MS. THOMPSON: Excuse me --

14 COMMISSIONER ALLEN: So, that is the according to
15 the minutes, and so, since November, has there been any action, Ma'am
16 General Counsel?

17 MS. THOMPSON: In fact, Ms. Allen, the response there
18 is, in fact, the response that I gave. I cannot independently determine the
19 trigger. So, that was --

20 COMMISSIONER ALLEN: But has anybody pulled
21 together, so we can look at the trigger? That's all I'm saying. Since this was
22 something --

23 MS. THOMPSON: No, that would be a discussion -- it
24 would be -- the trigger --

25 COMMISSIONER ALLEN: Well, you said --

26 MS. THOMPSON: Can I --

27 COMMISSIONER ALLEN: -- it, he didn't.

28 MS. THOMPSON: Can I respond, Ms. Allen? The
29 lawyer doesn't set the dollar figure that would cause the trigger. That was
30 what I was responding at the meeting. Mrs. Travis --

31 COMMISSIONER ALLEN: I'm not Ms. Travis.

32 MS. THOMPSON: Sorry, Ms. Allen.

33 COMMISSIONER ALLEN: Thank you.

34 MS. THOMPSON: I have to respond to what you just
35 said. You're asking the attorney to go back and find some dollar amount
36 that would cause the surcharge. You guys -- I would come to this meeting
37 and somehow, I decided as the attorney, to go find some figures.

38 So, that was my attempt, at that meeting, to respond, that
39 the language was fine. I can help you with the language. But in terms of
40 setting a figure, that's the Commission's responsibility.

41 COMMISSIONER ALLEN: And that's rates and -- and
42 so, Mr. Chairman, have we looked at it in our rates panel, to see where we
43 could set a cost that would either take the surcharge off or at rate there, put
44 the surcharge on it? Have we done any study on it? That's only --

1 CHAIRMAN SWAIN: The only thing that I have for
2 you, I have -- we have a list of all of the cab -- I mean, all of the gasoline
3 fees, as they go up and down, up and down, up and down. I do know that --

4 COMMISSIONER ALLEN: But there's an average. So,
5 they should --

6 CHAIRMAN SWAIN: Well, it fluctuates so much. On
7 any given day, it's liable to go up 20 cents, then all the sudden, the next day
8 --

9 COMMISSIONER ALLEN: Okay, but we can -- the
10 rates -- it's being turned over to the panel or the --

11 CHAIRMAN SWAIN: It is and I think that instead of
12 keep trying to go with gas surcharges, that we need to go ahead and look at
13 the permanent rate increase.

14 COMMISSIONER ALLEN: But the only thing by
15 permanent rate increase, Mr. Chairman, that I would like to bring up is the
16 fact that if we go to meters, the permanent rate increase don't mean nothing.

17 So, all this -- it's January now, Mr. Chairman, okay, so,
18 we're talking about the new meter rate is suppose to go into effect April 1st,
19 the time frame of -- but I was just wondering -- what we had discussed --
20 that's where I was.

21 CHAIRMAN SWAIN: I understand that.

22 COMMISSIONER TRAVIS: I mean, I think generally, we just
23 looked at the rates in the Washington metropolitan area and then make a
24 decision, based on that, and I think we should because if we're talking be
25 possibly going to time and distance meters, it wouldn't make sense to me, to
26 starting talking about permanent rates right now.

27 And so, we should just deal with what needs to be done
28 and that's making sure that the drivers aren't hurt with this latest increase. I
29 think we're at \$3.09, I think, was the last I heard.

30 CHAIRMAN SWAIN: It depends on where you go, just
31 like everywhere else. The thing about it is, we're sitting here talking about a
32 gas surcharge, but the other part is simply this, take it to the panel, go here,
33 set whatever it is you'd like to have set and bring it back.

34 COMMISSIONER TAPSCOTT: I have a question.

35 CHAIRMAN SWAIN: Mr. Tapscott?

36 COMMISSIONER TAPSCOTT: What have the meters
37 got to do with the gasoline? You're going to have to pay gasoline whether
38 you've got a meter or not. So, what are we talking about? I'm not
39 following. I'd like to -- explain, what does a meter got to do with the price
40 of gasoline?

41 CHAIRMAN SWAIN: The meter has to do with the
42 price -- nobody said the meter had anything to do with the price of gasoline.
43 What was basically said is to go ahead, take a look at a permanent rate
44 increase, do it while everything else is up on the meter, the meter prices and

1 everything else, and instead of going back and forth -- let's say that all of the
2 sudden, the Mayor tells me that he wants me to reduce the rate to \$3.25.

3 I get up there and I've got the documentation from the
4 panel of rates and rules and say, "Mr. Mayor, that may be all well and
5 good." I can go ahead and justify increasing that rate.

6 I have no idea what the Mayor is going to say. All I'm
7 going to do is present him with all the information and I'm going to tell him
8 how I feel. All I'm asking you to do is give me some facts that I can go in
9 there and tell the Mayor, "Mr. Mayor, you may want this and I see it this
10 way." Tell you what, \$3.15 or \$3.25 or something like that may be too low.
11 We need to go ahead.

12 I'm looking for a permanent rate increase that I can add
13 onto this and all I'm asking you to do is to send it back. We've got until
14 April. If we go to the meters, the thing is not going to be programmed
15 overnight. You can easily change the program rate. I'm just asking for
16 something to go ahead and get us a permanent increase.

17 COMMISSIONER BAKER: Mr. Chairman?

18 CHAIRMAN SWAIN: Yes, sir.

19 COMMISSIONER BAKER: Let me just say, I'm very
20 concerned about the language and particularly, for the riding public. There
21 are two things.

22 First, my first concern was just about the level of
23 confusion for the public and ourselves, that we're discussing rate review and
24 meter rate all at the same time.

25 I hear your point, that we should just go forward with the
26 Commission's work and do it as we're required to do it, and I think that
27 that's fine, and whatever happens with the meters, happens with the meters.

28 I am concerned, however, that given the sentiments that
29 we're hearing from the public, that we are also -- I mean, taking this from
30 the perspective of a rate increase and if we're going to have a rate increase,
31 then I really think that we've got to have some serious discussion.

32 Earlier, Mr. Tapscott raised the issue of SUV's being put
33 on the street. I mean, our regulations are going to have to begin looking at
34 fuel efficient cars, because we should not be one, destroying the
35 environment, but secondly, we should not be paying for people to use
36 vehicles that shouldn't be -- I mean, why are we allowing SUV's on the
37 street, and then to have people say they can't afford the gas?

38 So, if it's their choice, to drive an SUV, then let them pay
39 the cost.

40 CHAIRMAN SWAIN: Well, the same could be said for
41 cars that are 10 to 15 years old.

42 COMMISSIONER BAKER: Right, that's what I mean,
43 and so, let's not be making this about we're doing rate increases because of
44 the cost of gas. We're doing rate increases because we have an aging fleet of

1 cars that cost a lot.

2 CHAIRMAN SWAIN: I know.

3 COMMISSIONER BAKER: Which is why no other city
4 is having to do these constant rate increases, and so, I want to be
5 competitive, and I not only want to be competitive, I want to be competitive
6 with the rest of the country, because I want our citizens to live here and I
7 want our tourists to come here, and I just don't think that we're having a
8 responsible conversation.

9 CHAIRMAN SWAIN: Well, the thing about it, Mr.
10 Baker, is that we're required to do a rate review.

11 COMMISSIONER BAKER: And that's fine, but we're
12 not required to do a rate increase.

13 CHAIRMAN SWAIN: Well, I didn't say we were
14 required to do a rate increase. All I'm saying is that -- so, we won't come
15 back here three months later and say, "Well, we didn't do this, we didn't do
16 that."

17 Let's get all of the information right now, look at it and if
18 it's warranted, we'll do it.

19 COMMISSIONER BAKER: If it's warranted, but let's
20 not stack the deck.

21 CHAIRMAN SWAIN: I'm not trying to stack the deck.
22 I'm just trying to stack some information, so that if somebody asks a
23 question, that at least we can say we did this, this and this.

24 COMMISSIONER BAKER: Okay.

25 CHAIRMAN SWAIN: Next?

26 MR. BEYAH: Thank you, again, Mr. Swain. Just to add
27 to my concern about the surcharge, I think that if we looked at any other
28 industry or entity that provides products to the consumer, they automatically
29 figure in the cost of fuel and the cost of their goods that they sell, because it
30 affects their overhead.

31 Why isn't -- why doesn't the Commission look at that, in
32 regards to the taxicab, because gasoline costs affect our overhead?

33 CHAIRMAN SWAIN: Not only gasoline costs, but tires
34 and everything else.

35 MR. BEYAH: We're talking about gasoline costs here.

36 CHAIRMAN SWAIN: We're talking about gasoline
37 charges, but the thing about it is that when you start talking about a
38 permanent rate increase, all of that has to be taken into consideration to.

39 But all I'm asking is, let's gather the information and
40 make a reasonable decision.

41 MR. BEYAH: Gather what information?

42 CHAIRMAN SWAIN: What it costs for you to operate
43 your business.

44 MR. BEYAH: Well, that's a horse of a different color.

1 CHAIRMAN SWAIN: It may be a horse of a different
2 color, but --

3 MR. BEYAH: You're talking about the impact of
4 gasoline -- the cost on us today.

5 CHAIRMAN SWAIN: And I understand that, sir, and
6 will take that under advisement.

7 COMMISSIONER ALLEN: Do we have a surcharge on,
8 at the present time?

9 CHAIRMAN SWAIN: Yes, we do.

10 COMMISSIONER ALLEN: When does it expire?

11 CHAIRMAN SWAIN: The 29th.

12 COMMISSIONER ALLEN: What can we do as a
13 Commission, to either just let it die on the 29th, to expand it or what --
14 what's the next step? As of the 29th, is it all over? We no longer have a
15 surcharge or what, and because of the way -- we put it on because of the gas
16 prices, are we going to let it lapse on the 29th or are we going to extend it,
17 because we only had it for what, 60 days instead of 120 days, which is the
18 normal -- which is --

19 MS. THOMPSON: Excuse me, please, we end up with
20 really bad transcripts.

21 COMMISSIONER ALLEN: Okay. So, does that -- I
22 think that that's -- instead of anybody coming up and saying, are you going
23 to let it drop, are we going to have it? I think that's the bottom line, what
24 are we going to do as of the 29th of this month? I think that's the question.

25 CHAIRMAN SWAIN: What do you want to do?

26 COMMISSIONER ALLEN: Extend it. I don't even feel
27 like -- I mean, we've done it and I will personally say that we extend it for
28 whatever the normal length of time is. By that time, we'll be at the rate,
29 we'll be at the meter, we'll be at the -- and all of it can either be dissolved --
30 resolved and we don't have to do it anymore, because we'll include in your
31 new rule making, when you do the new rules for the meters.

32 CHAIRMAN SWAIN: Gas surcharges doesn't come
33 under the meters.

34 COMMISSIONER ALLEN: I said it can be done at the
35 same time. I didn't say it was --

36 CHAIRMAN SWAIN: No, you said included in.

37 COMMISSIONER ALLEN: Okay, but included in the
38 meeting, that we make a decision. It can all be done in April or whatever
39 the time frame is, rather than to do one point now, one point the next day
40 and one point the next day.

41 So, we would be able to be inclusive in this fee structure
42 that we will be going crazy with, by that time.

43 CHAIRMAN SWAIN: Are you making a motion?

44 COMMISSIONER ALLEN: I move that we keep the

1 surcharge until -- what, April 1st or 120 days, which ever comes sooner.

2 MS. THOMPSON: The surcharge, it has to be a specific
3 date.

4 COMMISSIONER ALLEN: Okay, I don't have a
5 calendar in front of me and I --

6 MS. THOMPSON: No, you don't have to worry about
7 the exact date. You just have to decide how many days.

8 COMMISSIONER ALLEN: One-hundred-twenty days.

9 COMMISSIONER TRAVIS: I second that.

10 CHAIRMAN SWAIN: Motion has been made by
11 Commissioner Allen. It's been seconded by Ms. Travis. Any questions?
12 Call for the vote. Everybody in favor, say 'aye'.

13 (Chorus of ayes.)

14 MS. THOMPSON: I'm sorry, before we call for the vote,
15 I do want to caution that one of the concerns that I asked you to send
16 something around to the Commissioners about this is, the concerns by the
17 riding public, that they are not notified when there is discussion or
18 something on the agenda for a rate increase.

19 So, that is -- I just -- I presume you sent it to the
20 Commissioners. I just want to repeat it. That's my job, to let you know that
21 that's what's required in your regulations, that in essence, you do notify.

22 What is happening here today, for example, we probably
23 have --

24 COMMISSIONER ALLEN: It's an extension.

25 CHAIRMAN SWAIN: It's the same.

26 MS. THOMPSON: But it's not an extension. It's a new --
27 what will happen, Ms. Allen, is, this is -- it's an extension of what was done,
28 but to the extent that it may not occur, for example, because of the stickers
29 immediately, you may end up with a break.

30 But I do want to just caution that that is in your
31 regulations, that there is -- rate increases are suppose to go to your panel on
32 rates and rules.

33 CHAIRMAN SWAIN: You're right.

34 MS. THOMPSON: One of the questions we do get from
35 the public is, when was this -- when the public was notified that the
36 Commission would be considering --

37 CHAIRMAN SWAIN: For public comment --

38 MS. THOMPSON: -- a rate increase, so that they could
39 also comment.

40 CHAIRMAN SWAIN: Right.

41 MS. THOMPSON: We've gotten a lot of those. So, I just
42 want to put that out there.

43 COMMISSIONER ALLEN: Madam General Counsel, in
44 an emergency, do we have to go through that same process?

1 MS. THOMPSON: There's actually no specific provision
2 in there, referring to an emergency.

3 COMMISSIONER TRAVIS: And if we do it today -- in
4 fact, up until the 29th, the public would have a chance to hear that it will be
5 extended from the --

6 CHAIRMAN SWAIN: They'll have an opportunity to
7 speak to it.

8 COMMISSIONER TRAVIS: But if we did as emergency
9 ruling, they haven't had --

10 MS. THOMPSON: No, emergency -- when you do the
11 emergency rule making, it's not as though somebody comments and there is
12 a change. Emergency rule making is essentially just notifying them, that
13 you took emergency action.

14 COMMISSIONER ALLEN: And so, can this not be
15 taken as emergency action? Are you telling me that this cannot be taken as
16 emergency action, with us voting today and then notifying that we took the
17 action?

18 CHAIRMAN SWAIN: I will tell you that the last time
19 we did it, I received a lot of e-mails telling me that the public did not get an
20 opportunity to give their comments.

21 COMMISSIONER ALLEN: Okay, I understand that, Mr.
22 Chairman, but I'm saying, is there anything forbidding us, other than the
23 comments and the calls you received, from taking this action at this time?

24 MS. THOMPSON: Is there something that prohibits you
25 from taking emergency action?

26 COMMISSIONER ALLEN: Yes.

27 MS. THOMPSON: In fact, my recollection -- and I'm
28 sorry, I didn't bring -- I can go grab my book, DCMR. It doesn't actually
29 refer to emergency rule making.

30 Emergency rule making obviously occurs. The District
31 Government takes those kinds of actions, District Government agencies.
32 It's just that -- I'm just referring to what's in your regulations. Your
33 regulations are essentially talking about rate making and it goes to the panel.
34 I just want to say that.

35 COMMISSIONER ALLEN: But there's nothing -- even
36 in the regulations, to indicate when we can take emergency action?

37 MS. THOMPSON: We've done it every time and --

38 COMMISSIONER ALLEN: And has there been a
39 precedent set for that?

40 MS. THOMPSON: Yes, it has.

41 COMMISSIONER ALLEN: I'm just asking about --

42 CHAIRMAN SWAIN: The only thing I'm saying is that I
43 didn't know --

44 COMMISSIONER ALLEN: I'm more worried about

350

351
352
353
354

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

(202) 234-4433

1 telephone calls. All right, would you rather that I withdraw this thing and
 2 say we have another meeting on this -- and I'm not saying that I'm going to.
 3 I just asked. Would that be preferable, that we withdraw the amendment,
 4 have an emergency meeting, which would make us comply with whatever
 5 this is?

6 CHAIRMAN SWAIN: Whatever this is, it's allowing the
 7 public to comment.

8 COMMISSIONER ALLEN: How much time do we have
 9 to give the public to comment? That's the question.

10 CHAIRMAN SWAIN: Well, just because we haven't
 11 done it in the past, doesn't mean that it's not right to do it.

12 COMMISSIONER ALLEN: Okay, and not saying -- I'm
 13 just saying how much time do we have to give the public to comment --

14 CHAIRMAN SWAIN: At least seven days notice.

15 COMMISSIONER ALLEN: Seven days notice, and
 16 today is what?

17 CHAIRMAN SWAIN: Today is the 9th.

18 COMMISSIONER ALLEN: Okay. So, if we did it
 19 today, they have to --

20 MS. THOMPSON: I'm not sure if it's seven days notice.
 21 I'm not sure --

22 CHAIRMAN SWAIN: Well, I know when I do
 23 something today, it's seven days. I will check on that and give you a call.

24 COMMISSIONER ALLEN: Okay, but in the meantime,
 25 let us pass this amendment that's on the floor and if it is anything that
 26 cannot -- we cannot do under -- with efficiency, then it can't go forward.

27 So, I'm asking that we pass the amendment that I put on
 28 the floor.

29 COMMISSIONER TRAVIS: The motion is on the floor
 30 to pass it.

31 CHAIRMAN SWAIN: And we're discussing it.

32 COMMISSIONER ALLEN: And we've been in
 33 discussion.

34 CHAIRMAN SWAIN: All right, so, what you're saying,
 35 that if we find out that there's something --

36 COMMISSIONER ALLEN: That is not legally
 37 sufficient, then we know we cannot go forward.

38 CHAIRMAN SWAIN: Are you going to tell me -- okay,
 39 and all I have to do is notify you?

40 COMMISSIONER ALLEN: That's right.

41 CHAIRMAN SWAIN: Okay.

42 COMMISSIONER ALLEN: No, no, you have to notify
 43 the Commissioners.

44 CHAIRMAN SWAIN: Well, I know that.

1 COMMISSIONER ALLEN: Yes, that is was not legally
2 sufficient, and then show me, of course, why it wasn't legally sufficient.
3 You know I'm -- Mr. Swain, you know me well enough to know I'm going
4 to ask you why.

5 CHAIRMAN SWAIN: You know me well enough to
6 know that if I sent you something, I'm going to send you the reason why.

7 COMMISSIONER ALLEN: Well, anyway, if you --

8 CHAIRMAN SWAIN: Hold on, I need to talk to the
9 legal counsel.

10 MS. THOMPSON: I don't see anything wrong with that.

11 CHAIRMAN SWAIN: Okay.

12 MS. THOMPSON: The Commission will either have to
13 reconvene or -- I'm not sure how you would make the decision, as to if there
14 is some disagreement --

15 COMMISSIONER ALLEN: But it's not something that
16 we can with --

17 MS. THOMPSON: But the important thing is -- I'm
18 sorry, Mr. Tapscott. But the important thing is, I think at some point, we do
19 put the public on notice, that we are considering a rate increase. That seems
20 to be the big issue, that we're coming to the meetings and someone gets up
21 and says, "We need a surcharge," but the public doesn't have a chance to
22 comment. That seems to be the -- the rules were structured that way, that in
23 essence -- if we had had the rate increase on the agenda and --

24 COMMISSIONER ALLEN: It's not a rate increase. We
25 don't want any confusion. A surcharge on the agenda.

26 CHAIRMAN SWAIN: Yes, sir, Mr. Baker?

27 COMMISSIONER BAKER: I don't want to play
28 semantics or games with this, Ms. Allen. I mean, the public is paying more
29 and whether it's a surcharge or a rate -- granted, they're paying it now, but
30 they've already expressed a lot of concern.

31 People are expressing it through the meter regulation and
32 I just don't think we can be dismissive of the public, especially as we're
33 entering to a recessionary time, where everyone is hurting.

34 And so, this is going to pass. Let's move on. Let's quit
35 discussing it. Let's keep the surcharge in effect that's in effect, but let's not
36 play games with the public. They pay the bill and just as every other
37 business has to look at, yes, there are costs that are going up. They have to
38 cut back on something else, because people are starting to hurt, and if the
39 industry wants to, then -- I mean, they don't really have concerns about
40 whether people are cutting back or not.

41 COMMISSIONER ALLEN: So, you've got to call for the
42 -- Mr. Chairman -- for the vote.

43 CHAIRMAN SWAIN: I did, but you stopped me.

44 COMMISSIONER ALLEN: All right, well, then you --

1 CHAIRMAN SWAIN: I did call for the vote.

2 COMMISSIONER ALLEN: All in favor --

3 CHAIRMAN SWAIN: No, we didn't.

4 COMMISSIONER ALLEN: No, nobody voted, because
5 she stopped me and -- it wasn't me.

6 MS. THOMPSON: Could you make sure that you have
7 what the motion is?

8 CHAIRMAN SWAIN: State your motion again, Ms.
9 Allen.

10 COMMISSIONER ALLEN: Okay, the motion is that gas
11 -- surcharge for gas be extended 120 days after the 29th of January, which
12 gives an order -- Mr. Baker, it gives the public an opportunity to have some
13 input.

14 CHAIRMAN SWAIN: But that doesn't --

15 COMMISSIONER ALLEN: Okay, take that out, just
16 extend it. Just extend it 120 days, okay. Yes, the gas. Now, can we hear the
17 vote?

18 CHAIRMAN SWAIN: All right, call for the vote. All in
19 favor for the extension, say 'aye'.

20 ALL: Aye.

21 COMMISSIONER TAPSCOTT: No. Question, the last
22 time -- a couple of years ago, I don't know -- I'm just asking a question. The
23 last time we tried to do this a few years ago --

24 COMMISSIONER ALLEN: I wasn't here.

25 COMMISSIONER TAPSCOTT: -- there was some rule
26 that we was told -- and whether it's true or not -- by the General Counsel
27 and the Chairman, that we could only do it so many times.

28 COMMISSIONER BAKER: That's right.

29 COMMISSIONER TAPSCOTT: We could only do it so
30 many times, legally.

31 CHAIRMAN SWAIN: All right.

32 COMMISSIONER TAPSCOTT: I'm just asking,
33 bringing that up. I'm not going to --

34 MS. THOMPSON: I'm not familiar with.

35 COMMISSIONER TAPSCOTT: Yes, but that's what we
36 was told the last time.

37 CHAIRMAN SWAIN: Okay.

38 MS. THOMPSON: So, Ms. Allen is saying that her
39 motion is that the surcharge be extended for 120 days, if legally sufficient.

40 COMMISSIONER TAPSCOTT: That's great.

41 MS. THOMPSON: So, we can check to see about this --

42 CHAIRMAN SWAIN: And if it's not -- it doesn't go into
43 effect, all right. Mr. Baker, did you hear that, sir?

44 COMMISSIONER BAKER: I did. That didn't address

1 my concerns, but it's --

2 COMMISSIONER ALLEN: Well, your concern is the
3 public and I think --

4 (OTR comments)

5 COMMISSIONER TRAVIS: Generally, it's 120 days.
6 So, if we've only done 60 days -- if we can't do it for 120, following the 60
7 days, can we do at least another 60 days, which would give you 120 days?

8 COMMISSIONER ALLEN: It's just an extension.

9 CHAIRMAN SWAIN: All right.

10 MS. THOMPSON: What Mr. Tapscott is saying, we've
11 had just a series of surcharges and so, I'm not sure what they were looking
12 at, when they said you can only do, but some of the times.

13 COMMISSIONER TAPSCOTT: I don't know either, but
14 that's what we was told.

15 MS. THOMPSON: So, I'll have to -- there may have
16 been an opinion from our Legal Counsel Division, because the District does
17 have a lot of concern about agencies taking emergency action.

18 CHAIRMAN SWAIN: Emergency legislation.

19 MS. THOMPSON: Because in essence, what it does is, it
20 removes the public's ability to comment, and so, that's the reason we
21 brought up the permanent rate increase because that will allow us to put it
22 on the agenda. It would be on the agenda for February and that way, we get
23 the notice out to the public and in essence, we get passed that business of
24 taking these emergency actions.

25 That's probably what this was, because what it does, it's
26 not good due process.

27 CHAIRMAN SWAIN: Well, we can -- hold on, hold on,
28 hold on. We can meet in February. That doesn't bother me. Okay, Mr.
29 Baker, go ahead, sir.

30 COMMISSIONER BAKER: I mean, we've passed this,
31 but I just want to say, part of the reason I'm concerned about the public
32 commenting here and being able -- and our not dismissing the public's
33 voice, is we talk about democracy, when it comes to the rule regulations
34 about the meter, not just letting the Mayor the Chairman or anybody --

35 CHAIRMAN SWAIN: Mr. Baker, it failed.

36 COMMISSIONER BAKER: It failed? I thought it
37 passed.

38 CHAIRMAN SWAIN: No.

39 COMMISSIONER BAKER: Okay.

40 (OTR comments)

41 CHAIRMAN SWAIN: Mr. Tapscott, the correction has
42 been made, okay. Okay, the motion has passed. I'm looking for a motion
43 from you, ma'am.

44 COMMISSIONER ALLEN: It looks like every time I

1 read the minutes, I'm the one that says this, but I move that this meeting be
2 adjourned.

3 COMMISSIONER BAKER: Second.

4 CHAIRMAN SWAIN: Okay.

5 (Whereupon, the foregoing matter concluded at
6 approximately 1:10 p.m.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24